

JOINT JUDGE ADVOCATE OFFICER BASIC COURSE: A CURRICULUM AND
TRAINING BASED ANALYSIS OF THE FEASIBILITY OF COMBINING
JUDGE ADVOCATE INITIAL OFFICER TRAINING

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General Studies

by

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The opinions and conclusions expressed herein are those of the student author and do not necessarily represent the views of the U.S. Army Command and General Staff College or any other governmental agency. (References to this study should include the foregoing statement.)

ABSTRACT

JOINT JUDGE ADVOCATE OFFICER BASIC COURSE: A CURRICULUM AND TRAINING BASED ANALYSIS OF THE FEASIBILITY OF COMBINING JUDGE ADVOCATE INITIAL OFFICER TRAINING, by MAJ Andrew D. Flor, 97 pages.

The National Defense Authorization Act of Fiscal Year 2003 included a provision that required a report on the “desirability and feasibility of consolidating the separate Army, Navy, and Air Force courses of basic instruction for judge advocates into a single course to be conducted at a single location.” The service Judge Advocate General (JAG) schools issued this report on 24 January 2003. However, in light of the passage of time and the current fiscal climate, the information in the report needed updating. This thesis assessed the current state of initial entry Judge Advocate officer training at the three service JAG schools. The primary sources of research came from two sources: interviews with the current Deans or Commandants of the schools and a review of the current officer basic course blocks of instruction. A review of these sources shows the limited feasibility and desirability of joint Judge Advocate initial entry training. The requirements placed on each school outside of their mission to conduct initial entry Judge Advocate officer training, combined with the different service cultures, makes joint initial entry Judge Advocate training difficult to conduct, expensive in the short-term, and likely to result in minimal cost savings in the long-term.

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ACRONYMS

ABA	American Bar Association
AFJAGS	Air Force Judge Advocate General's School
APFT	Army Physical Fitness Test
BLC	Basic Lawyer Course
BRAC	Base Realignment and Closure
CLAMO	Center for Law and Military Operations
CLE	Continuing Legal Education
COT	Commissioned Officer Training
CSMLO	Command Sergeant Major Legal Orientation
DCO	Direct Commission Officer Course
EO	Equal Opportunity
FCD	Future Concepts Directorate
GOLO	General Officer Legal Orientation
ISLERC	Interservice Legal Education Review Committee
IT	Information Technology
ITRO	Interservice Training Review Organization
JA	Judge Advocate
JAG	Judge Advocate General
JAGMAN	Manual of the Judge Advocate General
JAIBC	Judge Advocate Officer Basic Course
JASOC	Judge Advocate Staff Officer Course
JES/CMTIS	JAG Enterprise System/Case Management and Tracking Information System

LL.M.	Master of Laws Degree
LSSS	Legal Services Support Section
NETC	Naval Education and Training Center
NJS	Naval Justice School
O&M	Operations and Maintenance
OBC	Officer Basic Course
ODS	Officer Development School
OER	Officer Evaluation Report
PT	Physical Training
RLSO	Region Legal Service Office
ROTC	Reserve Officer Training Corps
SJA	Staff Judge Advocate
SOLO	Senior Officer Legal Orientation
TDD	Training and Developments Directorate
TJAG	The Judge Advocate General
TJAGLCS	The Judge Advocate General's Legal Center and School
TJAGSA	The Judge Advocate General's School U.S. Army
TRADOC	Training and Doctrine Command
UCMJ	Uniform Code of Military Justice
USMC	United States Marine Corps
USN	United States Navy

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CHAPTER 1

INTRODUCTION

Joint military training continues to receive attention as budgetary constraints imposed on the United States military become reality. With the so-called sequestration military cuts implemented on 1 March 2013, mandating over \$500 billion in defense budget cuts during the next decade, any potential way to save money should receive scrutiny by military leaders.¹ With operations in Afghanistan winding down to their conclusion in 2014, one possible place for budget cuts starts with military training not related to pre-deployment training. Non-service specific training duplicated by each of the military services persists as a potential avenue to save money that the services must investigate. For example, both the Marines and the Army have field artillery branches. If both services operated separate field artillery schools, they would need to have a good reason to justify duplicate training. If field artillery operations in the Marines operated in a substantially different fashion than in the Army, this would serve as adequate justification. However, the Marines must not operate their field artillery in a substantially different way than the Army because the military does not operate two separate field artillery training schools. Marines attend Army field artillery training at Fort Sill, Oklahoma.² On the other hand, the military operates three rotary-wing flight schools.³

¹Tom Vanden Brook, "Hagel, Pentagon Announce Initial Spending Cuts," *USA Today*, 1 March 2013, <http://www.usatoday.com/story/news/politics/2013/03/01/hagel-pentagon-spending-cut-plans/1956557/> (accessed 12 May 2013).

²Marine Corps Field Artillery, "Roles in the Corps," <http://www.marines.com/being-a-marine/roles-in-the-corps/ground-combat-element/field-artillery> (accessed 12 May 2013).

The rationale for three different flight schools might come from the substantially different way that the services operate helicopters.

These two examples represent the potential rationales for joint military training or for separate military training. Both of these examples have valid explanations. Field artillery training remains the same regardless of whether a Marine or a Soldier fires the artillery piece. However, rotary-wing helicopter training does not remain the same between the services. Flying a helicopter over the sea comes with its own challenges, so separate training makes sense for the sea services (Marines, Navy, and Coast Guard).⁴ However, this separate flight school example does not make sense when looking at initial training in a helicopter. The services could operate a joint initial rotary-wing training school with service-specific follow on courses to avoid duplication of training between the services, but such an examination is beyond the topical scope of this thesis.

In a similar fashion, the services operate three different Judge Advocate General (JAG) schools to train their Judge Advocates. The Navy trains Marine, Navy, and Coast Guard Judge Advocates at the Naval Justice School in Newport, Rhode Island.⁵ The

³Chief of Naval Air Training, “Aviator Training,” http://www.cnatra.navy.mil/training_pilot.htm (accessed 12 May 2013). Naval Air Station Whiting Field, Florida trains Marine, Navy, and Coast Guard helicopter pilots. Fort Rucker, Alabama trains Army helicopter pilots. Student Training, “Student Information,” United States Army, <http://www.rucker.army.mil/newcomers/students.html> (accessed 12 May 2013); Air Education and Training Command, “23rd Flying Training Squadron,” United States Air Force, <http://www.aetc.af.mil/library/factsheets/factsheet.asp?id=6196> (accessed 12 May 2013). Fort Rucker, Alabama also trains Air Force helicopter pilots through a separate training program that remains Air Force specific.

⁴Chief of Naval Air Training. The differences in training manifest in various ways. For example, sea service helicopter pilots receive training on “shipboard landing.”

⁵United States Navy Judge Advocate General’s Corps, “Naval Justice School,” <http://www.jag.navy.mil/njs.htm> (accessed 12 May 2013).

Army trains its Judge Advocates at The Judge Advocate General's Legal Center and School in Charlottesville, Virginia.⁶ The Air Force trains its Judge Advocates at The Judge Advocate General's School at Maxwell Air Force Base, Alabama.⁷ Each one of these JAG schools train Judge Advocates on the Uniform Code of Military Justice (UCMJ), the Law of Armed Conflict (LOAC), contract and fiscal law, administrative law, legal assistance, and claims. While each school trains their Judge Advocates on service-specific regulations and service-specific organizational structures, there exists a definite degree of overlap in the training.

In fact, in Fiscal Year 2003, section 582 of the National Defense Authorization Act (NDAA) required the Secretary of Defense to issue a report on the “desirability and feasibility of consolidating the separate Army, Navy, and Air Force courses of basic instruction for judge advocates into a single course to be conducted at a single location.”⁸ The report required by this provision was not filed in the public record, but the JAG schools submitted the report on 24 January 2003.⁹ The report made clear that “the JAG School representatives do not believe consolidating all basic JAG legal education at one

⁶United States Army Judge Advocate General's Corps, “The Judge Advocate General's Legal Center and School,” <https://www.jagcnet.army.mil/8525736A005BC8F9> (accessed 12 May 2013).

⁷Air Force JAG Recruiting, “Training and Education,” <http://www.jagusaf.hq.af.mil/> (accessed 12 May 2013).

⁸U.S. Congress, *Bob Stump National Defense Authorization Act for Fiscal Year 2003*, Public Law 107-314, § 582, December 2, 2002.

⁹U.S. Department of the Army, *Memorandum for Committee to Study the Desirability and Feasibility of Consolidating Basic Instruction for Judge Advocates, Subject: Report on Assessment of Consolidating JAG Basic Courses* (Charlottesville, VA, 24 January 2003).

site is feasible or desirable.”¹⁰ However, the question remains a valid concern. The service JAG schools have changed since 2003, and the fiscal climate in the military has certainly changed. As a result, the question posed by the NDAA provision in 2003 should receive a second look.

This thesis takes another look at the question behind the NDAA provision: Should the military pursue a joint Judge Advocate Officer Basic Course (JAOBC)? While costs remain a valid concern in whether or not the services should pursue such a course of action, the complexities of the costs of running each JAG school remain beyond the scope of this thesis. However, this thesis addresses whether the differences between the JAG school curricula and training justify the existence of three separate JAG schools. In addition to curricula and training differences, this thesis compares the JAG school training model to joint training in other contexts. For example, whether initial entry Judge Advocate training resembles the field artillery example or the rotary-wing example mentioned previously can assist in answering the research question. Additionally, while Judge Advocate training becomes more joint for higher ranking Judge Advocates, this thesis will only incidentally address JAG training beyond the basic course level.

The next chapter of this thesis consists of a review of readily available materials on the topic of joint JAG training. Key examples of joint training in other contexts are presented as background material. Chapter 3 of this thesis explains the methodology for determining whether a joint JAG school for officer initial entry training benefits the services. The methodology addresses the curricula and training differences between the JAG schools and balances those differences against each other to determine whether or

¹⁰Ibid., 1.

not a joint JAOBC would be feasible. Chapter 4 answers the question behind this thesis by analyzing the relevant factors. The answer to whether the services should pursue a joint JAOBC provides a useful resource for the military. Joint training continues to receive attention at all levels of the military. The services should apply the same scrutiny to a joint JAG school that they apply to other types of military training.

CHAPTER 2

LITERATURE REVIEW

The answer to whether the services should pursue a joint JAOBC covers a broad topic area, but very little substantial research on that topic exists to date. While the Fiscal Year 2003 NDAA required the report on the feasibility of conducting a consolidated JAOBC, the report itself constitutes the only major research on the topic to date. Outside of that report, most of the research on the topic of joint JAG training comes from the Interservice Legal Education Review Committee (ISLERC), formed in 1977 by the Interservice Training Review Organization (ITRO), a voluntary organization composed of senior representatives from all of the services.¹¹ The ISLERC, composed of the Deans and Commandants of the three JAG schools and their deputies, has occasionally looked at the topic of joint JAG training, but very little publicly available research from those reviews exist. Due to this conundrum of minimal written research on the underlying topic, this literature review focuses on “two tiers of research,”¹² as posed by Jeffrey Knopf at the Naval Postgraduate School. The first tier consists of primary sources that focus on the research question posed by this thesis. The second tier consists of relevant sources that do not directly answer the research question, but shed light on the research question through “analogies.”¹³ These second tier sources necessarily “relate to and help

¹¹U.S. Department of the Army, Regulation 351-9, *Inter-Service Training* (Washington, DC: Government Printing Office, 29 August 2012).

¹²Jeffrey W. Knopf, “Doing a Literature Review,” *Political Science and Politics* (January 2006): 130.

¹³*Ibid.*, 131.

advance [the] specific interests” of this thesis.¹⁴ To limit this second tier to a reasonable amount of research, each source must pass three rules of thumb, also proposed by Knopf: (1) the source must be a leading authority; (2) the source must be recent and high-prestige; and, (3) the source must be “relevant and helpful.”¹⁵ By limiting this second tier, the research pool for this thesis takes a more focused approach that assists the reader without including any unnecessary sources that distract from the research question. This literature review is broken down into the same two tiers.

The First Tier

The first tier of research for this thesis, those sources that focus on the research question directly, are limited by the nature of the topic. However, this tier does contain three sources or groups of sources that provide direct insight into this topic: first, the response of the JAG schools to Section 582 of the FY2003 NDAA; second, interviews with the current Deans and Commandants of each JAG school;¹⁶ and, third, the curricula and military training requirements for each JAG school. Each of these sources provides direct insight into the research question, or has a unique viewpoint on the feasibility of a joint JAOBC.

¹⁴Ibid.

¹⁵Ibid.

¹⁶The Army JAG School has a Dean of Academics in charge of the JAOBC instruction. This Dean serves under the Commander, The Judge Advocate General’s Legal Center and School (TJAGLCS), currently Brigadier General Flora Darpino. The Naval Justice School and the Air Force JAG School each have a Commandant in the grade of O-6 in charge of their JAOBC instruction. They also serve as the commander of their respective schools. Further details on the command structure of each JAG School are addressed in Chapter 4. For ease of writing, the author will refer to these three individuals as Deans unless referring to a specific Commandant.

The report issued in response to Section 582 of the FY2003 NDAA, and the accompanying information provided, gives primary insight into the research question. For reasons unknown, the report was not published in the public record. The congressional record also does not contain information on who proposed this provision or why they posed the question. As a result, beyond the report itself, the limited written primary research material makes answering the question of the viability of a joint JAOBC difficult.

Oral interviews conducted with senior JAG leaders can fill the void of primary written research material. The current Deans of each JAG school possess a unique viewpoint on the feasibility of a joint JAOBC. Based upon their position, they have the most valid opinion on whether or not a joint JAOBC would work. With their knowledge of the operation of the schools, they have the ability to provide a totality of the circumstances review on the topic. Each Dean also provides a detailed viewpoint on the service specific training requirements. Each interview was executed as an oral history interview and adhered to Army policies of informed consent in compliance with federal law.

The curricula and training requirements for each JAG school provide a basis to neutrally compare the requirements from each school and determine whether or not a joint JAOBC model would potentially work. While the Deans have valid opinions and viewpoints, a direct look at the curricula removes some of the inherent bias the Deans may have and allows for a direct comparison. Without analyzing the curricula and training requirements, this thesis would not adequately cover the specific requirements for JAG officer training at the basic course level. As mentioned in chapter 3, the

methodology of this thesis, this curricula and training requirement comparison forms the foundation for answering the research question.

These first tier sources provide an adequate basis to answer the research question, but none of them provide direct answers to the research question posed by this thesis. Each one requires interpretation in order to answer the research question. As a result, this literature review also includes several second tier sources to broaden the research to apply by analogy.

The Second Tier

The second tier of research for this thesis, those sources that do not focus on the research question directly, are not as limited as the first tier sources. However, in order to capture only those sources from leading authorities that are recent, relevant, and high-prestige, this literature review limits this tier to two specific categories: first, the background history, facilities, laws, and chain of command governing each JAG school; and second, joint training models in other branches. These second tier sources provide a basis to compare and contrast against the research question.

The background and history of each JAG school does not necessarily answer the question of a joint JAOBC, but it does provide a solid framework. For example, the reasons behind the each JAG school location and their ties to other law schools and military training commands provides a possible roadblock to merging the schools into one location. Additionally, the laws and regulations that govern the operation of each JAG school provide additional restrictions or insights into how a joint JAOBC might face unforeseen obstacles before merger.

Joint training contexts from other branches provide a strong analogy to the joint JAOBC training model. For example, the Chaplain Corps from each service recently merged their training into one location at Fort Jackson, South Carolina.¹⁷ The command structure, facilities required, and training concepts can all be applied by analogy to the JAG Corps model. Other joint training contexts provide additional insights, such as joint Field Artillery training at Fort Sill, Oklahoma or joint rotary wing pilot training at Fort Rucker, Alabama. Each of these models provides arguments for or against a joint JAOBC.

These second tier sources augment the first tier sources and allow this thesis to answer the research question either directly or by analogy. In the next chapter, the concept of a comparative analysis is introduced as the methodology for this thesis. The comparative analysis approach allows this thesis to answer the proposed research question in the clearest manner possible.

¹⁷The Armed Forces Chaplaincy Center, *Dedication Bulletin* (6 May 2010).

CHAPTER 3

RESEARCH METHODOLOGY

The existence of three separate Judge Advocate General (JAG) schools in the military, each teaching an officer basic course to their respective services, must serve a valid military purpose. This thesis analyzes the legal curriculum and military training differences between the service JAG schools to better understand whether a joint JAOBC would work. The method to analyze the curriculum and training consists of a comparative analysis. Each block of instruction taught by each JAG school was compared against the similar block of instruction from the other JAG schools. The same comparative analysis was done for each block of military training outside of the legal curriculum. Where no similar block of instruction or military training exists at one of the JAG schools, the reasons for the lack of training or instruction were analyzed as well. This chapter describes the reasons for choosing the comparative analysis approach, including the strengths and weaknesses of that methodology.

While no method could possibly cover all of the differences between the JAG schools because the topic has numerous facets, the comparative analysis approach allows for the greatest flexibility when addressing the differences and similarities between two or more broad categories. This rationale holds particularly true when this thesis narrows its focus to the differences between the legal curriculum and the military training. In fact, a comparative analysis works best when comparing two items.¹⁸ The five factors for a

¹⁸Kerry Walk, “How to Write a Comparative Analysis,” Writing Center at Harvard University, <http://www.fas.harvard.edu/~wricntr/documents/CompAnalysis.html> (accessed 12 May 2013).

comparative analysis provide a strong framework for this thesis: frame of reference, grounds for comparison, thesis, organizational scheme, and the linkage between components.¹⁹

The frame of reference serves as the context for this thesis. The relevant background information, covered in Chapter 2, provides that frame of reference for this thesis. The grounds for comparison, the training and legal curriculum provided by each JAG school, were chosen primarily for two reasons: first, these two grounds provide a clear method of differentiation between each school, and second, these grounds are within the author's personal and professional experience.²⁰ The organizational scheme allows the advantages or disadvantages of each block of instruction or training to show through a point-by-point comparison. Additionally, and perhaps even more importantly to the overall research question, the differences between each JAG school curricula and training model also show clearly with a comparative analysis. Those differences serve as the focal point for whether or not the military should pursue a joint JAOBC. Numerous valid differences mean that the reason for separate JAG schools and a separate JAOBC remains strong. Fewer valid differences mean that the reason for separate JAG schools and a separate JAOBC has a weaker foundation.

The criteria used to judge each block of instruction or training against each other remains subjective at times by necessity. However, the objectiveness of the comparative analysis approach lies not in comparing the strengths and weaknesses of each block

¹⁹Ibid.

²⁰The author served as an Associate Professor of Criminal Law at The Judge Advocate General's Legal Center and School from 2009-2012.

against each other, it lies in the ability to show the fact that differences between the three training and curricula models exist or do not exist. This linkage reveals the root differences between the service JAG schools and even exposes the cultural differences between the services. Other methodologies could not as clearly show these differences in such an objective fashion.

While a strict budget comparison might seem to serve as a more readily quantifiable analysis method, the flaws in such a method quickly become apparent. For example, the locations of each JAG school influence the costs behind running each facility. The Air Force JAG School, located at Maxwell Air Force Base near Montgomery, Alabama has a lower cost of living and lower construction costs than the Naval Justice School located in Newport, Rhode Island.²¹ However, the rationales behind the locations of the JAG schools often go beyond monetary reasons. Additionally, a strict budgetary comparison ignores the differences in facilities and training that exist at each JAG school.

Another methodology that would seem to serve a valid purpose is a manpower analysis. If, for example, one service JAG school requires much less manpower to run on a day-to-day basis, that lower manpower usage would seem to validate that school's approach to training. However, the flaws in this methodology also quickly become

²¹CNNMoney, "Cost of Living Calculator," <http://money.cnn.com/calculator/pf/cost-of-living/> (accessed 12 May 2013). A person making \$50,000 per year in Montgomery, Alabama would have to make \$64,542 per year in Rhode Island to have the same standard of living. Office of Policy Development and Research, Department of Housing and Urban Development, "Construction Cost Indices," April 2005, <http://huduser.org/portal/publications/costindices.pdf> (accessed 12 May 2013). Similarly, in 2005 (the most recent data available), constructing a building in Rhode Island costs 122 percent of the national average, while constructing a building in Alabama costs 85 percent of the national average.

apparent. A manpower analysis does not address the differences in training offered at each JAG school. Nor would this type of assessment address classroom student to instructor ratios, which vary from school to school for different reasons. Even more so, the services might have cultural biases towards having certain rank structures teach or lead at each school. For example, the Army's school remains the only service JAG school with a flag officer in command. A strict assessment of faculty numbers does not directly address the rationales behind manpower differences between the three schools.

Overall, using a comparative analysis limited to the curriculum and training differences between each JAG school leads to the clearest answer to the proposed question behind this thesis of whether or not the military should pursue a joint JAOBC. The next chapter of this thesis will analyze the research question in detail by applying this methodology.

CHAPTER 4

ANALYSIS

While this chapter primary deals with the analysis of the differences between the curriculum of the three JAG schools and their training methodology for their initial officer basic course, a background of each school must be provided in order to serve as the foundation for the analysis. This chapter starts with a background section for each school. After that, the chapter reviews the curriculum and training schedules for each officer basic course. Finally, this chapter ends with a summary of the interviews conducted for this thesis.

The Army: The Judge Advocate General's Legal Center and School

In 1951, the Army moved the JAG school from Fort Myer, Virginia to Charlottesville, Virginia.²² The reasons for this move included: co-location with an existing law school to make use of their law library (a cost saving measure), proximity to Washington, DC for guest speaker and senior leadership visits, and the University of Virginia offered not just office and classroom space, but a dormitory for student or faculty use.²³ The JAG school, then known as TJAGSA (The Judge Advocate General's School U.S. Army), originally occupied a wing of the University of Virginia's law school on main campus, known as Clark Hall, and the dormitory, known as Hancock House,

²²Fred L. Borch III, "Military Legal Education in Virginia: The Early Years of The Judge Advocate General's School in Charlottesville," *The Army Lawyer* (Army Pamphlet 27-50-466, March 2012): 49.

²³*Ibid.*

occupied a plot of land across a parking lot from Clark Hall.²⁴ In 1975, the school relocated to the North Grounds lot it occupies now, still co-located with the University of Virginia's law school.²⁵ A new wing added additional space to the JAG school in 1990.²⁶ In 2003, The Judge Advocate General (TJAG) renamed the school "The Judge Advocate General's Legal Center and School (TJAGLCS)" to reflect the addition of the Legal Center to the school facilities.²⁷ The Legal Center includes several non-teaching entities such as the Center for Law and Military Operations (CLAMO), the Training and Developments Directorate (TDD), and the Future Concepts Directorate (FCD).²⁸ The building has 80 hotel-style rooms on the third and fourth floors of the original building that serve as housing for basic course students.²⁹

Table 1 lists the current capacity of TJAGLCS.

²⁴Ibid., 50.

²⁵The Judge Advocate General's Corps, "Regimental History: History of the Legal Center and School," <https://www.jagcnet.army.mil/8525736A005BE1BE/0/04E1051771A098D38525735C0065FE1E?opendocument&noly=1> (accessed 12 May 2013).

²⁶Ibid.

²⁷Ibid.

²⁸The Judge Advocate General's Legal Center and School, "Legal Center," <https://www.jagcnet.army.mil/8525736A005BC8F9/nav?openform&ewb=121411&est=648590487A9A385E8525754D004AF8A0> (accessed 12 May 2013).

²⁹The Judge Advocate General's Corps, "Regimental History."

Table 1. TJAGLCS Capacity	
<u>Building Item</u>	<u>Capacity</u>
Square Feet	166,000
Main Classrooms	140 seat; 90 seat; 46 seat
Auditorium	321 seat
Courtrooms	4 (when used as a seminar room, each has a 16 seat seminar capacity)
Computer Labs	2
Seminar Rooms	9

Source: Created by author, data obtained from U.S. Department of the Army, *Memorandum for Committee to Study the Desirability and Feasibility of Consolidating Basic Instruction for Judge Advocates*, Subject: Report on Assessment of Consolidating JAG Basic Courses (Charlottesville, VA, 24 January 2003), 11-12. Data on the number of courtrooms and the size of each comes from the author's personal experience.

Table 2 lists the number of teaching faculty at TJAGLCS.

Table 2. Teaching Faculty at TJAGLCS (Does not include non-teaching faculty)	
Army Officers	30 (does not include reserve faculty)
Navy Officers	2
Marine Officers	3
Coast Guard Officers	0
Air Force Officers	2
Civilian	1

Source: Created by author, data obtained from Maurice Lescault, e-mail message to author, 25 March 2013.

The Army school does not fit within the Training and Doctrine Command (TRADOC) for several reasons. First, TRADOC did not exist when the Army school was

founded. The Army established TRADOC on 1 July 1973.³⁰ Second, the American Bar Association (ABA) certified the Army school to offer an accredited advanced law course in 1958, which later turned into the ability to award a Master of Laws (LL.M.) degree in Military Law.³¹ The authority to award an LL.M. became law with the passage of Public Law 100-180 in 1987.³² In order to maintain that accreditation, the Army school needed the ability to follow ABA guidelines, not TRADOC guidelines, so they remained a separate entity.³³ However, funding for TJAGLCS originates at the Department of the Army level and flows through TRADOC because Fort Lee (a TRADOC installation) serves as the primary support base for TJAGLCS.³⁴

The Army school holds three Officer Basic Courses (OBCs) annually.³⁵ Each class contains approximately 120 officers from the active component, the reserve component, and the National Guard.³⁶ The current course length is ten-and-one-half weeks.³⁷ Prior to attending the OBC in Charlottesville, all students attend a two-week military orientation course at Fort Lee, Virginia.³⁸ After graduating the course in

³⁰U.S. Army Training and Doctrine Command, "TRADOC Command History," <http://www.tradoc.army.mil/HISTORIAN/faqs.htm> (accessed 12 May 2013).

³¹Borch, 11, 12.

³²Ibid., 12.

³³Fred L. Borch III, telephonic interview by author, 6 February 2013.

³⁴Maurice Lescault, electronic correspondence to author, 25 March 2013.

³⁵Maurice Lescault, telephonic interview by author, 6 February 2013.

³⁶Colonel David Diner, telephonic interview by author, 4 February 2013.

³⁷Lescault, interview.

³⁸Borch, interview.

Charlottesville, Virginia, all students attend the six-week Direct Commissioned Officer Course (DCO) at Fort Benning, Georgia to continue their military training.³⁹ Following DCO, the officers travel to their first duty stations. A typical assignment for a first-term Army Judge Advocate normally includes a tour in Legal Assistance before moving on to other areas of the law.⁴⁰

The Navy, Marines, and Coast Guard: The Naval Justice School

The Naval Justice School (NJS) relocated from Port Heuneme, California to Newport, Rhode Island in 1950.⁴¹ In 1991, the NJS moved into its current building, the Helton-Morrison Hall.⁴² The NJS sits within two buildings connected by a walkway.⁴³ The NJS Commandant, currently CAPT Stacy Pedrozo, oversees three other legal training detachments nationwide: San Diego, Norfolk, and the two Navy instructors at TJAGLCS in Charlottesville, Virginia.⁴⁴

Table 3 lists the current capacity of NJS.

³⁹Ibid.

⁴⁰Diner, interview.

⁴¹U.S. Department of the Army, *Memorandum*, 26.

⁴²Ibid.

⁴³CAPT Stacy Pedrozo, telephonic interview by author, 15 March 2013.

⁴⁴Ibid.

Table 3. NJS Capacity	
<u>Building Item</u>	<u>Capacity</u>
Square Feet	33,000
Main Classrooms	65 seat; 50 seat; 45 seat; 35 seat; 30 seat (rigged for court reporter training)
Auditorium	1 large auditorium
Courtrooms	6 small courtrooms with a very small gallery
Computer Labs	2
Seminar Rooms	8

Source: Created by author, data obtained from CAPT Stacy Pedrozo, telephonic interview by author, 15 March 2013.

Table 4 lists the number of teaching faculty at NJS.

Table 4. Teaching Faculty at NJS (Does not include non-teaching faculty)	
Army Officers	0
Navy Officers	18
Marine Officers	15
Coast Guard Officers	2
Air Force Officers	0
Off-Site Officers	2 at TJAGLCS, 4 at San Diego, 4 at Norfolk (all Navy)

Source: Created by author, data obtained from CAPT Stacy Pedrozo, telephonic interview by author, 15 March 2013.

The NJS answers directly to the Commander, Naval Legal Services Agency, but does receive funding and oversight from the Naval Education and Training Center (NETC) headquartered in Pensacola, Florida.⁴⁵ NETC serves as the Navy equivalent to

⁴⁵Ibid.

TRADOC. NETC provides specific oversight of Information Technology (IT) requirements and supports the facilities for the NJS.⁴⁶ All Operations and Maintenance (O&M) funding for NJS comes from NETC.⁴⁷ Funding for the Marines in attendance at NJS comes from the Marine Training Command, the line officer school, and the Staff Judge Advocate (SJA) to the Commandant of the Marine Corps.⁴⁸ Newport itself serves as a large training center for the Navy. Courses located at Newport include the Officer Candidate School, the Surface Warfare School, the United States Naval Academy Preparatory School, the Senior Enlisted Academy, the Naval War College, and the Chief Warrant Officer School.⁴⁹ The Submarine School in Groton, Connecticut also falls directly under the supervision of Newport.⁵⁰

NJS does not hold an ABA accreditation, nor does it offer a Graduate Course program that grants an LL.M. degree for its senior officers. However, it does offer numerous Continuing Legal Education (CLE) short courses throughout the year for further training opportunities. All branches of the service can attend these CLE courses.⁵¹ Further detail on the specific other programs offered by NJS will follow in a subsequent section of this thesis.

⁴⁶Ibid.

⁴⁷Ibid.

⁴⁸Ibid.

⁴⁹Ibid.

⁵⁰Ibid.

⁵¹Ibid.

The NJS holds three Basic Lawyer Courses (BLCs) per year.⁵² The BLC lasts ten weeks.⁵³ Each course contains all active duty Marine, Navy, and Coast Guard Judge Advocate officers.⁵⁴ Overall, the Marines fill slightly more than half of the seats in each BLC.⁵⁵ Approximately 165 officers attend BLC per year.⁵⁶ The path each officer takes before and after BLC varies based upon their service. Navy officers start with a five week Officer Development School (ODS). Upon completion of ODS, the Navy frequently releases those officers from active duty until they can join a BLC. Upon completion of BLC, Navy officers will receive an assignment to a Region Legal Service Office (RLSO) headquarters or to one of two large legal detachments. Normally the officer will spend six months in legal assistance, six months in criminal defense, six months in command services, and then six months in trial support.⁵⁷ Marine officers must first complete Officer Candidate School and The Basic School prior to BLC. If Marine officers have to wait for a BLC class start date, they often work in a Legal Services Support Section (LSSS). Upon graduation from BLC, Marine officers return to one of the LSSS offices.⁵⁸ Coast Guard officers, like Marines, must complete Coast Guard line officer training prior

⁵²Ibid.

⁵³Ibid.

⁵⁴Ibid.

⁵⁵Ibid.

⁵⁶Ibid.

⁵⁷Ibid.

⁵⁸Ibid.

to attending BLC. Upon completion of BLC, Coast Guard officers may serve in a Navy RLSO, a Marine LSSS, or they may serve in a Coast Guard specific legal job.⁵⁹

The Air Force: The Judge Advocate General's School

Maxwell Air Force Base dates back to 1912 and still serves as the oldest pure air power military base in the United States.⁶⁰ Like the Navy, the Air Force consolidated most of its professional military education at Maxwell Air Force Base. The base serves as the “Leadership and Intellectual Center” of the Air Force.⁶¹ The Air Force Judge Advocate General's School (AFJAGS) first taught at Maxwell Air Force Base in 1940.⁶² After the war, the AFJAGS was no longer needed and dissolved. After the Military Justice Act of 1968, which established the independent Military Trial Judiciary, the Air Force realized the need for specific JAG training. This led to the reestablishment of AFJAGS in 1969.⁶³ The AFJAGS moved from building to building on Maxwell until the 1980s. During that time, the school actively sought affiliation with a law school, similar to the Army's affiliation with the University of Virginia law school.⁶⁴ After the Air Force realized that the two serious proposals from the University of Denver and the University of Alabama might cause AFJAGS to leave Maxwell Air Force Base permanently, the Air

⁵⁹Ibid.

⁶⁰Thomas Becker, telephonic interview by author, 15 March 2013.

⁶¹The Air University, <http://www.au.af.mil/au/> (accessed 12 May 2013).

⁶²Becker interview.

⁶³Ibid.

⁶⁴Ibid.

Force built a new facility for AFJAGS at Maxwell called the Dickinson Law Center.

AFJAGS moved there in 1993 and has been there ever since.⁶⁵

Table 5 lists the current capacity of AFJAGS.

Table 5. AFJAGS Capacity	
<u>Building Item</u>	<u>Capacity</u>
Square Feet	56,000
Main Classrooms	150 seat; 75 seat
Auditorium	2 auditoriums (double as main classrooms)
Courtrooms	2
Computer Labs	4
Seminar Rooms	13

Source: Created by author, data obtained from U.S. Department of the Army, *Memorandum for Committee to Study the Desirability and Feasibility of Consolidating Basic Instruction for Judge Advocates*, Subject: Report on Assessment of Consolidating JAG Basic Courses (Charlottesville, VA, 24 January 2003), 12.

Table 6 lists the number of teaching faculty at AFJAGS:

Table 6. Teaching Faculty at AFJAGS (Does not include non-teaching faculty)	
Army Officers	1
Navy Officers	0
Marine Officers	0
Coast Guard Officers	0
Air Force Officers	23 (plus 10 reserve officers)

Source: Created by author, data obtained from Thomas Becker, interview by author, telephonic, 15 March 2013.

⁶⁵Ibid.

Prior to 2006, AFJAGS fell under the Air Education and Training Command (AETC), an organization similar to NETC or TRADOC.⁶⁶ In 2006, the school broke away from AETC and now answers directly to the Commander of the Air Force Legal Operations Agency (AFLOA) and to The Judge Advocate General (TJAG) of the Air Force.⁶⁷ Funding for AFJAGS comes from AFLOA.⁶⁸

AFJAGS does not hold an ABA accreditation, nor does it offer a Graduate Course program that grants an LL.M. degree for its senior officers. However, it does offer numerous Continuing Legal Education (CLE) short courses throughout the year for further training opportunities. All branches of the service can attend these CLE courses.⁶⁹ Further detail on the specific other programs offered by AFJAGS will follow in a subsequent section of this thesis.

The AFJAGS holds three Judge Advocate Staff Officer Courses (JASOCs) per year.⁷⁰ The course lasts nine weeks long. Approximately 150 officers from all three components, Active, Air Guard, and Reserve, attend JASOC training each year.⁷¹ Prior to attending JASOC, direct commissioned Air Force Judge Advocates must first attend the Commissioned Officer Training (COT) course at Maxwell Air Force Base.⁷² The COT

⁶⁶Colonel Kenneth Theurer, telephonic interview by author, 15 March 2013.

⁶⁷Ibid.

⁶⁸Ibid.

⁶⁹Ibid.

⁷⁰Ibid.

⁷¹Ibid.

⁷²Becker, interview.

includes chaplains and medical personnel and lasts approximately thirty days. Upon completion of COT, many Judge Advocates go to their first unit of assignment and wait for a slot to open to attend JASOC. Officers commissioned through either the Reserve Officer Training Corps (ROTC) or the United States Air Force Academy do not attend COT. Upon completion of JASOC, the typical Air Force officer reports to a Wing legal office and serves as Chief of Legal Assistance and Preventative Law.⁷³

Overall Curriculum Review

Now that the backgrounds of each of the three JAG schools are clear, this thesis can move to a review of the three schools and the curriculum of their respective initial entry Judge Advocate officer training. The first thing to address before looking at specific classes taught includes the missions of each of the three initial entry Judge Advocate officer training programs. For the Army, the Dean approved a new JAOBC mission and five objectives in late-March 2013.⁷⁴

Table 7. Army JAOBC Mission
“To provide each officer with the foundation for success as a member of the JAGC Team, imbued with the Warrior Ethos, and prepared to deliver mission-focused legal services to the Army and the Nation.”

Source: Created by author, data obtained from The Judge Advocate General’s Legal Center and School, “OBC Mission and Objectives,” March 2013.

⁷³Ibid.

⁷⁴Lescault, electronic correspondence.

Table 8. Army JAOBC Objectives	
1	“Provide students with a baseline of knowledge in our core practices area so that new Judge Advocates are qualified to begin performing mission-focused legal services immediately in a garrison or deployed environment.”
2	“Build the officer’s pride in the Army and the Judge Advocate General’s Corps.”
3	“Build a cohesive class to demonstrate principles of teamwork and leadership.”
4	“Build and improve physical fitness and inculcate the Warrior Ethos.”
5	“Build the new Judge Advocates’ professional reputation in their class and in the Corps.

Source: Created by author, data obtained from Maurice Lescault, electronic correspondence to author, 25 March 2013.

The Army JAOBC mission and the five objectives focus heavily on the Warrior Ethos,⁷⁵ physical readiness, and the ability to provide legal services in any environment the Army operates.

The Air Force JASOC master curriculum plan, approved in September 2011 includes a mission statement, a vision statement, and a values statement.

⁷⁵The Army defines the Warrior Ethos as “I will always place the mission first. I will never accept defeat. I will never quit. I will never leave a fallen comrade.” U.S. Army, “Warrior Ethos–Army Values,” <http://www.army.mil/values/warrior.html> (accessed 12 May 2013).

Table 9. Air Force JASOC Mission
“To provide the new judge advocate a foundation in military law and advocacy skills, preparing him or her for the immediate demands of an Air Force legal office and laying the groundwork for continuing professional development as an airman, commissioned officer, and judge advocate.”

Source: Created by author, data obtained from Air Force Judge Advocate General’s School, “The Judge Advocate General’s School Master Curriculum Plan: Judge Advocate Staff Officer Course,” U.S. Air Force, September 2011.

Table 10. Air Force JASOC Vision
“Adult learner-focused education and training, using multiple instructional methods delivered by high-quality faculty, and mentoring from mature and highly professional commissioned and noncommissioned officers.”

Source: Created by author, data obtained from Air Force Judge Advocate General’s School, “The Judge Advocate General’s School Master Curriculum Plan: Judge Advocate Staff Officer Course,” U.S. Air Force, September 2011.

Table 11. Air Force JASOC Values
“Fostering loyalty, honesty, leadership, integrity, fairness, and teamwork, balancing concern for both people and mission through personal accountability, sense of duty, and discipline.”

Source: Created by author, data obtained from Air Force Judge Advocate General’s School, “The Judge Advocate General’s School Master Curriculum Plan: Judge Advocate Staff Officer Course,” U.S. Air Force, September 2011.

The Air Force mission, vision, and values heavily focus on officership and the ability to provide legal services in line with a system of values.

The Naval Justice School course description for the BLC covers the class currently in session. However, their BLC course of instruction will undergo significant changes in the near future.

Table 12. NJS BLC Course Description
<p>“Accession training for all judge advocates in the Navy, Marine Corps, and Coast Guard. This course includes extensive training in military justice, court-martial advocacy, legal assistance, civil law, and operational law. Upon graduation, judge advocates are certified under Article 27(b), UCMJ, as trial/defense counsel of general courts-martial and are authorized to perform legal assistance under paragraph 0703 of the JAGMAN.”</p>

Source: Created by author, data obtained from Commander Julia Crisfield, electronic correspondence to author, 25 March 2013.

The Navy BLC course description focuses on the breadth of instruction amongst the key practice areas, and highlights the certification process for all Navy, Marine Corps, and Coast Guard Judge Advocates under Article 27(b), Uniform Code of Military Justice (UCMJ). Article 27(b) makes TJAG certification a prerequisite for all trial and defense counsel to practice in all general courts-martial.⁷⁶ This thesis will later show the difference in the certification process for each service.

The number of hours of instruction Judge Advocates receive varies based upon the school. On first impression, the Army would apparently have the most classroom time to teach their Judge Advocates based upon the longest course length at ten-and-one-half weeks. The Navy would have slightly less than that based upon a BLC course length of ten weeks. The Air Force JASOC would have the least based upon a nine week course length. However, this does not take into account how many hours per day each school teaches and allows their students for lunch time, study time, or preparation time. Other factors that weigh on the number of hours of instruction include things such as physical

⁷⁶“(b) Trial counsel or defense counsel detailed for a general court-martial . . . must be certified as competent to perform such duties by the Judge Advocate General of the armed force of which he is a member.” UCMJ art. 27(b) (2012).

training, group athletic events, and the number of hours devoted to administrative matters. Administrative matters includes things such as inprocessing, security clearance paperwork, registration for computer accounts, class photos, finance briefings, outprocessing, graduation rehearsals, and graduation. The number of hours devoted to administrative matters varies widely depending on the school.

Table 13 lists the number of hours of instruction taught at each school.

Table 13. Number of Hours of Instruction Taught by School	
<u>School</u>	<u>Hours</u>
Army Judge Advocate Officer Basic Course	324.5
Naval Justice School Basic Lawyer Course	370-376
Air Force Judge Advocate Staff Officer Course	294.25

Source: Created by author, data obtained from The Judge Advocate General’s Legal Center and School, “Judge Advocate Officer Basic Course Schedule,” February 2013; Naval Justice School, “Navy Basic Lawyer Course Schedule,” January 2013; U.S. Department of the Air Force, *Memorandum for Judge Advocate Staff Officer Course 13-B Attendees*, Subject: Course Narrative Schedule, JASOC Class 13-B (Maxwell Air Force Base, AL, February 2013).

The differences come primarily from the length of the average number of classroom hours per day. The NJS BLC generally begins class at 0730 each day and ends class at 1700 each day. The average lunch break lasts one-and-one-half hours, but can be as short as one hour or as long as two-and-one-half hours if combined with a physical training (PT) session. The AFJAGS JASOC generally begins class at 0730 each day and ends class at 1700 each day. The average lunch break lasts one hour, but occasionally lasts slightly longer at one hour and ten minutes. The Army JAOBC generally begins class at 0910 each day and ends class at 1620 each day. The average lunch break lasts one

hour and twenty minutes, and rarely deviates from that schedule. Accounting for the difference in schedules and the average lunch break, this leads to a maximum classroom hours of instruction per day count:

Table 14. Normal Maximum Number of Hours of Instruction Taught by School Per Day	
<u>School</u>	<u>Hours Per Day</u>
Army Judge Advocate Officer Basic Course	6
Naval Justice School Basic Lawyer Course	8
Air Force Judge Advocate Staff Officer Course	9

Source: Created by author, data obtained from The Judge Advocate General’s Legal Center and School, “Judge Advocate Officer Basic Course Schedule,” February 2013; Naval Justice School, “Navy Basic Lawyer Course Schedule,” January 2013; U.S. Department of the Air Force, *Memorandum for Judge Advocate Staff Officer Course 13-B Attendees*, Subject: Course Narrative Schedule, JASOC Class 13-B (Maxwell Air Force Base, AL, February 2013).

With those maximum number of hours per day, table 15 lists the theoretical maximum number of classroom hours of instruction per course:

Table 15. Theoretical Maximum Number of Classroom Hours of Instruction by School	
<u>School</u>	<u>Hours</u>
Army Judge Advocate Officer Basic Course	312
Naval Justice School Basic Lawyer Course	400
Air Force Judge Advocate Staff Officer Course	405

Source: Created by author, data obtained from The Judge Advocate General’s Legal Center and School, “Judge Advocate Officer Basic Course Schedule,” February 2013; Naval Justice School, “Navy Basic Lawyer Course Schedule,” January 2013; U.S. Department of the Air Force, *Memorandum for Judge Advocate Staff Officer Course 13-B Attendees*, Subject: Course Narrative Schedule, JASOC Class 13-B (Maxwell Air Force Base, AL, February 2013).

These theoretical maximums do not take into account holidays and early releases for holidays. For example, during the most recent NJS BLC, the students were released for President's Day (18 February 2013), and also the afternoon of Friday, 15 February 2013. Similarly, the Air Force gave the students President's Day off, but did not give the students the afternoon off on the Friday before the holiday. The Army did not need to give the students President's Day off due to the course starting the week after that holiday. However, as shown, the Army actually teaches more than the theoretical maximum number of hours. The JAOBC teaches students 324.5 hours with a theoretical maximum of 312 hours. This difference comes from the fact that the JAOBC occasionally teaches outside of the normal 0910-1620 schedule. For example, some classes occasionally last until 1720. This occurs at least eleven times during the course schedule. The Air Force teaches much less than the theoretical maximum. The JASOC teaches students 293.25 hours of instruction with a theoretical maximum of 405 hours. This difference comes from the fact that the JASOC routinely incorporates team building exercises, such as a "Commandant's Cup" in volleyball, flag football, or soccer. In addition to that, the JASOC routinely does PT in the afternoon from 1600-1800 instead of in the morning like the JAOBC. In contrast, the Navy teaches students at a level very close to the theoretical maximum. The NJS BLC teaches anywhere from 370-376 hours of instruction out of a theoretical maximum of 400 classroom hours. The reason why some students only receive 370 classroom hours while others receive as many as 376 hours comes from the last week of BLC. Students choose from one of three different specialty tracks: military justice, legal assistance, and command services. Each of those specialty tracks comes with a different number of classroom hours.

While Judge Advocates normally practice in six core legal practice areas (claims, legal assistance, military justice, administrative law, operational law, and contract and fiscal law), the schools generally teach in one of four areas: administrative law (which includes legal assistance and claims), military justice, contract and fiscal law, and operational law. The names of these practice areas vary slightly by service, but generally include the same topic areas. The number of hours taught in each practice area varies by school as well. For simplicity, table 16 also includes the administrative hours spent by school.

Table 16. Number of Hours of Instruction Taught by School by Practice Area					
<u>School</u>	<u>Admin Law</u>	<u>Fiscal Law</u>	<u>Military Justice</u>	<u>Operational Law</u>	<u>Administrative Hours</u>
JAABC	94	36	104.5	49	41
NJS BLC	109/147.5/ 151	1.75	164/200	37.75	21.5
JASOC	76.5	5.5	104.75	41.5	66

Source: Created by author, data obtained from The Judge Advocate General's Legal Center and School, "Judge Advocate Officer Basic Course Schedule," February 2013; Naval Justice School, "Navy Basic Lawyer Course Schedule," January 2013; U.S. Department of the Air Force, *Memorandum for Judge Advocate Staff Officer Course 13-B Attendees*, Subject: Course Narrative Schedule, JASOC Class 13-B (Maxwell Air Force Base, AL, February 2013).

The 41 administrative hours for the Army includes eight hours of leadership instruction. The 66 administrative hours for the Air Force includes 15.5 hours of leadership instruction and 22 hours for their trip to Eglin Air Force Base, Florida to see the inner workings of an operational Air Force Staff Judge Advocate's office. The Navy

does not include any specific leadership instruction in their BLC. The difference in the BLC hours for administrative law and military justices comes from the specialty week. If a student at BLC selects the military justice specialty track, that student will receive 200 hours of military justice instruction instead of 164. If a student chooses legal assistance, that student will receive 147.5 hours of administrative law instead of 109, while a student choosing command services will receive 151 hours of administrative law.

The difference in hours taught per practice area, outside of the administrative hours, comes from several sources. First, the type, number, and hours of the classes taught in each block vary by service. More on the specific differences between the classes will follow. Second, the types of classes taught in each block vary depending on the focus of each JAG Corps. These different focus areas receive analysis later in this thesis. Third, the number of hours devoted to some subjects depends on the number of faculty and the type of the exercise or class topic. For example, the Army only devotes 7.5 hours to motions advocacy while the Navy devotes 16.5 hours and the Air Force 1.5. The rationales behind these differences receive further attention in a later section of this thesis.

In order to further delve into the different topics taught by each school in each practice area, this thesis will break down the specific classes taught. Then a comparative analysis on each practice area will demonstrate the feasibility of pursuing a Joint Judge Advocate Officer Basic Course. Administrative hours spent will receive a review first, since those hours will also matter in a Joint JAOBC. The four major practice areas follow.

Administrative Hours

Perhaps the easiest area to analyze, but also the trickiest to reconcile in a joint facility, comes from the administrative hours spent by each course. The reason why reconciling these hours in a joint facility would be difficult is that many of these hours cannot be merged into one for a joint audience.

The number of hours spent on administrative areas for the Army includes 41 total hours split between eight hours of leadership and 33 hours of other areas. Some of the areas the Army spends time on include: computer account issue, photos, a tour of TJAGLCS, finance briefings, a welcome by the Commanding General, the Dean, and the Course Manager, a briefing on “Lore of the Corps,” security clearance paperwork, a presentation by international students in the course, a class on proper uniform wear, a uniform inspection, the Army Physical Fitness Test (APFT), graduation rehearsals, and graduation. The eight hours of leadership includes various topics spread throughout the course in a series of eight one-hour blocks of instruction.⁷⁷

The number of hours spent on administrative areas for the Navy includes 21.5 hours. This includes inprocessing, officer’s calls, outprocessing, graduation rehearsals, a mock trial competition, and graduation. As mentioned previously, the NJS BLC does not include specific blocks of instruction on leadership. The 21.5 hour number would increase if the lunch blocks that combine physical training (PT) into them were included.

⁷⁷The Judge Advocate General’s Legal Center and School, “Judge Advocate Officer Basic Course Schedule.” February 2013.

The problem with including those hours in the administrative hour number for BLC stems from the fact that the specific breakdown for PT and lunch varies by day.⁷⁸

The Air Force spends 66 hours on administrative areas. As previously mentioned, this number includes 15.5 hours of leadership instruction and 22 hours for their trip to Eglin Air Force Base, Florida. That leaves 28.5 hours of administrative hours dedicated to topics including: introductions by the Commandant, inprocessing, school policies, photos, paralegal introductions, student introductions, PT tests, financial incentive programs, a briefing by the Air Force TJAG, personnel development division briefings, graduation rehearsal, course critiques, computer and book turn-ins, and graduation. The 15.5 hours of leadership instruction include various topics spread throughout the course, culminating in a two-hour “Capstone Leadership Challenge” the day before graduation. The Florida trip takes two-and-one-half days. The other two schools do not incorporate such a trip into their curriculum.⁷⁹

In a joint setting, some of these blocks of instruction could easily merge into one. For example, graduation rehearsals and graduation ceremonies would easily combine into one ceremony. Other topics that would easily merge include: computer issue and turn-in, book issue and turn-in, some of the inprocessing blocks, and some of the outprocessing blocks. Some topics would merge into one block on the calendar, but would have to run separately in order to serve the different services. For example, PT tests could merge into one block of time on the calendar, but the respective services would have to administer their different PT tests by their respective standards. However, some blocks would not

⁷⁸Naval Justice School, “Navy Basic Lawyer Course Schedule,” January 2013.

⁷⁹U.S. Department of the Air Force, *Memorandum*.

merge very well and would have to run as entirely separate blocks on the calendar. If these blocks run at the same time, they would have to use different rooms in order to avoid confusion. Blocks that would work like this include wear of the uniform, computer account creation, personnel management briefings, finance briefings, and financial incentive program briefings. The leadership classes run by the Air Force and Army might allow for a merger, but only a topic-by-topic review of the curriculum could show the feasibility of joint instruction. At a minimum, the Army would have to allow time for more leadership or the Air Force would have to allow less time for leadership. The Navy would also have to agree to join in the leadership program as well. The Florida trip taken by the Air Force appears as an outlier. Reconciling this event in a joint course would probably result in termination of the trip.

Administrative and Civil Law Hours

This area, and the other three major practice areas, consists of the majority of the hours of instruction taught to Judge Advocates in their initial training at each of the three schools. A comparative analysis of the four practice areas will directly show the feasibility of pursuing a joint JAOBC. Unfortunately, due to the differences between the services, some of the blocks of instruction will seem to easily merge in a joint environment, but this will not always be the case. For example, investigations and the regulations that control investigations differ between the services. So while a joint investigations class seems practical, in reality, a joint investigations class would confuse students, particularly those in the initial training phase who have never actually worked with investigations. The comparative analysis portions of this thesis will attempt to account for those differences where appropriate.

Table 17 lists the common blocks of instruction in administrative and civil law between the three schools (even if the hours taught differ).

Table 17. Administrative and Civil Law Common Blocks of Instruction			
<u>Block of Instruction</u>	<u>Hours at JAOBC</u>	<u>Hours at BLC/ Hours in Specialty Week</u>	<u>Hours at JASOC</u>
Intro to Admin Law	1	1/0.5	0.5
Standards of Conduct (Joint Ethics Regulation)	6	11.5	3
Investigations or JAGMAN	4	4.5	3
Enlisted Separations and Officer Personnel Law	5	25	29
Government Information Practices	2	1	3.5
Ad Law Exams and Exam Reviews and Debriefs	7	9	3
SCRA	2	1.5/2	1.5
Legal Assistance	2	0.5/2	1
Consumer Law	6	2.25/4	1
Family Law	7	7/2	1
Trusts, Estates, Tax Law	12	6.5/4	6.5
Client Counseling	2	22/10	4.5
Military Writing	6	1	1
Claims	7	0.5/2	2

Source: Created by author, data obtained from The Judge Advocate General's Legal Center and School, "Judge Advocate Officer Basic Course Schedule," February 2013; Naval Justice School, "Navy Basic Lawyer Course Schedule," January 2013; U.S. Department of the Air Force, *Memorandum for Judge Advocate Staff Officer Course 13-B Attendees*, Subject: Course Narrative Schedule, JASOC Class 13-B (Maxwell Air Force Base, AL, February 2013).

Table 18 outlines the blocks of instruction common to two of the schools, but not all three.

Table 18. Administrative and Civil Law Blocks Taught at Two Schools			
<u>Block of Instruction</u>	<u>Hours at JAOBC</u>	<u>Hours at BLC/ Hours in Specialty Week</u>	<u>Hours at JASOC</u>
Command Authority	2	0	1
Adverse Admin Actions	2	0	1
Reserve Forces	2	0	1 (taught during operational law)
Federal-State Relations	2	1	0
Financial Liability Investigation of Property Loss (FLIPL)	1	0	2.5
Legal Research	1	0	1.5
Freedom of Expression	0	1.5	2
Interviewing and Counseling	2	1	0
Notary, Powers of Attorney, Soldier Readiness Processing	1	2	0
Wounded Warrior Law, Mental Health	3	1.5/3.5	0

Source: Created by author, data obtained from The Judge Advocate General's Legal Center and School, "Judge Advocate Officer Basic Course Schedule," U.S. Army, February 2013; The Judge Advocate General's Legal Center and School, "Judge Advocate Officer Basic Course Schedule," U.S. Army, February 2013; Naval Justice School, "Navy Basic Lawyer Course Schedule," U.S. Navy, January 201; U.S. Department of the Air Force, Memorandum for Judge Advocate Staff Officer Course 13-B Attendees, Subject: Course Narrative Schedule, JASOC Class 13-B (Maxwell Air Force Base, AL, February 2013).

Table 19 outlines blocks of instruction taught at just one school but not the other two schools.

Table 19. Administrative and Civil Law Blocks Taught at One School			
<u>Block of Instruction</u>	<u>Hours at JAOBC</u>	<u>Hours at BLC/ Hours in Specialty Week</u>	<u>Hours at JASOC</u>
Admin Remedies	1	0	0
Equal Opportunity	2	0	0
Reprimands	1	0	0
Immigration	1	0/2.5	0
Uniformed Services Employment and Reemployment Rights Act (USERRA)	2	0	0
Officer Evaluation Reports	2	0	0
JAG Enterprise System/Case Management and Tracking Information System (JES/CMTIS)	0	1	0
Predeployment Brief Basics and Student Briefings	0	3	0
Landlord, Tenant, Foreclosure	0	2.25/4	0
SGLI and Survivor Benefits	0	1	0
Personal Property	0	1.5	0
Small Claims Court	0	0/4	0
Victims of Crimes	0	0/1	0
USMC or USN Specific Discussion	0	0/1.5	0
SJA Time	0	0/13.5	0
Ad Law Specialty Class	0	0/5.5	0
Blotter	0	0/1.5	0
DOD Information Assurance	0	0/1	0
Gun Cases	0	0/4	0
Labor Law	0	0	1.5
Environmental Law	0	0	1
Student Briefings	0	0	4
JAG and Paralegal Teaming	0	0/1.5	0.5

Source: Created by author, data obtained from The Judge Advocate General's Legal Center and School, "Judge Advocate Officer Basic Course Schedule," February 2013; Naval Justice School, "Navy Basic Lawyer Course Schedule," January 2013; U.S. Department of the Air Force, *Memorandum for Judge Advocate Staff Officer Course 13-B Attendees*, Subject: Course Narrative Schedule, JASOC Class 13-B (Maxwell Air Force Base, AL, February 2013).

Working in reverse, the administrative and civil law blocks taught by only one of the schools present the greatest challenge to merging initial entry JAG training. The reason why one school might teach a particular topic while the other two schools do not usually relates to the types of legal expertise required in that particular service. For example, the Army deals frequently with immigration issues. The other services may also deal with those issues, but the Army saw the need to teach the course to their OBC students. The Navy only teaches immigration during the Legal Assistance specialty week track. Similarly, the Air Force saw the need to teach environmental law to their JASOC students. The other services may deal with those issues as well, but not at the initial entry level. Other topics, such as Officer Evaluation Reports (OER) clearly only applies to the Army. The other services would not be able to apply Army OER information to their respective officer evaluation systems. In a joint JAOBC, the other services could teach their own evaluation systems separately during the same block of time. Similarly, JES/CMTIS only applies to Navy officers, not the other two services. In a joint JAOBC, the Army could teach Military Justice Online (MJO) and the Air Force could teach their case management system separately during the same block of time.

When moving to a joint JAOBC, these topics would have to expand to include the other services, there would need to be service specific breakout sessions, or the joint course would not teach these topics. Several of these topics would easily serve the needs of all three services, such as JAG and Paralegal relationships or equal opportunity (EO). On the other hand, as mentioned previously, some of these topics are very service-centric. Navy officers would receive limited benefit from a class on USERRA because they do not have as many reserve personnel in their service, and all Navy reserve Judge

Advocates have prior active duty experience.⁸⁰ Similarly, Navy officers do not deal with reprimands on a routine basis since their service handles reprimands differently than the Army and the Air Force.⁸¹ Army and Air Force officers may benefit from predeployment brief training, but those briefings may in fact serve the needs of the Navy more so than the other services due to the routine ship deployments experienced by the Navy and Marines.⁸²

Looking at the ten topics taught by two schools, the decisions by the services not to teach each of those topics becomes less clear. For example, the Navy must deal with FLIPL investigations, but they do not teach a separate block on the topic. Similarly, the Air Force must deal with Wounded Warriors or Post-Traumatic Stress Disorders in their Airmen, but they do not have a specific block of instruction to teach those topics at the entry level. Reconciling these blocks of instruction would not require too much shifting by the services to teach them at a Joint JAIBC. Particularly since none of these ten blocks of instruction exceeds three hours, merging them into a joint JAIBC schedule would not place a tremendous strain on the number of classroom hours needed.

⁸⁰House Committee on Appropriations, *Department of Defense Appropriations Bill, 2012*, 112th Cong., 1st sess., 2011, 13. The Navy and Marine reserves have a Fiscal Year 2012 combined end strength of 105,100. The Fiscal Year 2012 Army Reserve end strength numbers 205,000, plus an additional 358,200 in the National Guard. Pedrozo, interview.

⁸¹U.S. Department of the Navy, JAG Instruction 5800.7F, *Manual of the Judge Advocate General* (JAGMAN) (Washington, DC: Office of The Judge Advocate General, 26 June 2012), paragraph 0105.

⁸²U.S. Navy, “Naval Transformation Roadmap–Flexible Deployment Concept,” <http://www.navy.mil/navydata/transformation/trans-toc.html> (accessed 12 May 2013).

The fourteen topics taught by all three schools would seem to provide a solid foundation on which to base a joint JAOBC administrative and civil law block of instruction. However, on closer examination, the number of hours devoted by each school to each topic varies greatly. For example, the Army devotes 12 hours to trusts and estates and tax law, while the other two services teach only 6.5 hours on the topic (the Navy provides an additional four hours during their specialty week if so selected by the student). The Navy and the Air Force both teach over 25 hours on enlisted separations and officer personnel law, while the Army only devotes 5 hours to the same topic. Table 19 shows many such disparities between the topics that all three services teach. Many of these disparities come from the differences between the service practice areas. For example, one of the major exercises in both JASOC and BLC revolves around actually conducting a mock separation board. The Army does not devote the time required to conduct a mock separation board. This difference reflects a tendency by the Army JAG Corps to minimize separation board actions while the Navy and the Air Force do not. Similarly, NJS focuses heavily on mock client counseling by devoting 22 hours, plus an additional 10 hours during the specialty week. Meanwhile, the Air Force and the Army only devote 4.5 hours and 2 hours respectively to the same topic.

Reconciling the difference in emphasis between the topics taught by all three schools stands as a major hurdle to a joint JAOBC curriculum. Among those topics, the Navy teaches 93.25 hours with another optional 26.5 hours for a total of 119.75 hours. Meanwhile, the Army teaches 69 hours and the Air Force only 60 hours. The Navy would stand to lose many hours of instruction in the administrative law block in a joint JAOBC curriculum due to the fact that the other services would not likely agree to adding as

many as 60 additional hours to these blocks. Another major factor to consider stems from the difference between service regulations that makes even similar blocks of instruction very different in reality. For example, an active duty Army enlisted separation must follow Army Regulation 635-200,⁸³ a Navy enlisted separation follows the Navy Military Personnel Manual (MILPERSMAN),⁸⁴ and the Air Force follows Air Force Instruction 36-3208.⁸⁵ All of these different regulations in just one area show the difficulty of combining administrative law instruction, particularly at the entry level.

Contract and Fiscal Law Hours

While the administrative and civil law practice area contains many differences between the services in how they teach those blocks of instruction, the contract and fiscal law practice area contains only one major difference. That difference stems from the fact that only the Army really trains their Judge Advocates on this topic at the JAIBC level. In fact, all three service schools train almost exclusively on fiscal law, with only a general introduction to contracts taught by the Army and the Air Force. Despite these challenges, one block of instruction matches up between the three services:

⁸³U.S. Department of the Army, Regulation 635-200, *Active Duty Enlisted Administrative Separations* (Washington, DC: Government Printing Office, 6 June 2005, Rapid Action Revision, 6 September 2011).

⁸⁴U.S. Department of the Navy, NAVPERS 15560D, *Naval Military Personnel Manual* (Washington, DC: Government Printing Office, 22 August 2002).

⁸⁵U.S. Department of the Air Force, Air Force Instruction 36-3208, *Administrative Separation of Airmen* (Washington, DC: Government Printing Office, 9 July 2004, Change 6, 19 October 2011).

Table 20. Contract and Fiscal Law Common Block of Instruction			
<u>Block of Instruction</u>	<u>Hours at JAOBC</u>	<u>Hours at BLC</u>	<u>Hours at JASOC</u>
Introduction to Fiscal Law	1	1.75	2

Source: Created by author, data obtained from The Judge Advocate General's Legal Center and School, "Judge Advocate Officer Basic Course Schedule," February 2013; Naval Justice School, "Navy Basic Lawyer Course Schedule," January 2013; U.S. Department of the Air Force, *Memorandum for Judge Advocate Staff Officer Course 13-B Attendees*, Subject: Course Narrative Schedule, JASOC Class 13-B (Maxwell Air Force Base, AL, February 2013).

In addition to this common block of instruction, the Air Force teaches two other blocks taught by the Army.

Table 21. Contract and Fiscal Law Blocks Taught by the Army and the Air Force			
<u>Block of Instruction</u>	<u>Hours at JAOBC</u>	<u>Hours at BLC</u>	<u>Hours at JASOC</u>
Operational Funding	9	0	1.5
Government Contracts	1	0	2

Source: Created by author, data obtained from The Judge Advocate General's Legal Center and School, "Judge Advocate Officer Basic Course Schedule," February 2013; Naval Justice School, "Navy Basic Lawyer Course Schedule," January 2013; U.S. Department of the Air Force, *Memorandum for Judge Advocate Staff Officer Course 13-B Attendees*, Subject: Course Narrative Schedule, JASOC Class 13-B (Maxwell Air Force Base, AL, February 2013).

The Army teaches the remainder of the blocks in the contract and fiscal law area.

Table 22. Contract and Fiscal Law Blocks Taught Only by the Army			
<u>Block of Instruction</u>	<u>Hours at JAOBC</u>	<u>Hours at BLC</u>	<u>Hours at JASOC</u>
Purpose	2	0	0
Time	2	0	0
Fiscal Law in Action Practical Exercise	1	0	0
Anti-Deficiency Act	3	0	0
Purpose-Time-Amount Seminar	3	0	0
Construction Funding	6	0	0
Fiscal Law Research	1	0	0
Fiscal Law Exam, Review	6	0	0
Fiscal Law After Action Review	1	0	0

Source: Created by author, data obtained from The Judge Advocate General's Legal Center and School, "Judge Advocate Officer Basic Course Schedule," February 2013; Naval Justice School, "Navy Basic Lawyer Course Schedule," January 2013; U.S. Department of the Air Force, *Memorandum for Judge Advocate Staff Officer Course 13-B Attendees*, Subject: Course Narrative Schedule, JASOC Class 13-B (Maxwell Air Force Base, AL, February 2013).

Just as with administrative and civil law, reconciling the fact that the Army spends 36 hours on contract and fiscal law while the Navy only spends 1.75 hours and the Air Force only 5.5 hours stands as a major hurdle to a joint JAOBC curriculum. The Army continues to push for greater fiscal law understanding among their Judge Advocates due to the numerous fiscal law issues that came out of the recent deployments to Iraq and Afghanistan.⁸⁶ The other schools do train on fiscal law, but not at the entry Judge Advocate level. One possible advantage to merging contract and fiscal law, as

⁸⁶The Judge Advocate General's Legal Center and School, *Fiscal Law Deskbook* (Charlottesville, VA, 2012).

compared with administrative law, comes from the universal principles in this topic area. A joint JAOBC would not have to teach three different sets of fiscal law.

Operational Law Hours

The operational law area contains many similar blocks of instruction, but as with the other topic areas, the services focus on different elements of operational law due to various reasons. Fortunately, as with contract and fiscal law, the operational law field applies universally to all three services with minimal differences in any one given topic area. Table 23 lists the common blocks of instruction in the operational law area:

Table 23. Operational Law Common Blocks of Instruction			
<u>Block of Instruction</u>	<u>Hours at JAOBC</u>	<u>Hours at BLC</u>	<u>Hours at JASOC</u>
The Geneva Conventions	9	3	1.5
Rules of Engagement	3	6.5	2
Law of Armed Conflict	2	5	2.5
Legal Basis for the Use of Force	4	1	1
Intelligence Law and Interrogation	1	1.5	1
Information Operations and Cyber Law	2	1	1.5
Exam and Exam Review	3	1	3.5

Source: Created by author, data obtained from The Judge Advocate General’s Legal Center and School, “Judge Advocate Officer Basic Course Schedule,” February 2013; Naval Justice School, “Navy Basic Lawyer Course Schedule,” January 2013; U.S. Department of the Air Force, *Memorandum for Judge Advocate Staff Officer Course 13-B Attendees*, Subject: Course Narrative Schedule, JASOC Class 13-B (Maxwell Air Force Base, AL, February 2013).

Table 24 lists the operational law blocks of instruction taught by two schools.

Table 24. Operational Law Blocks of Instruction Taught by Two Schools			
<u>Block of Instruction</u>	<u>Hours at JAOBC</u>	<u>Hours at BLC</u>	<u>Hours at JASOC</u>
Introduction to Operational Law, International Law	1	0	2
National Security Structure	1	1.5	0
Means, Methods, Direct Participation in Hostilities	6	3	0
International Agreements	1	1	0
Gauntlet or Operation Jagged Sword	8	0	16.5

Source: Created by author, data obtained from The Judge Advocate General’s Legal Center and School, “Judge Advocate Officer Basic Course Schedule,” February 2013; Naval Justice School, “Navy Basic Lawyer Course Schedule,” January 2013; U.S. Department of the Air Force, *Memorandum for Judge Advocate Staff Officer Course 13-B Attendees*, Subject: Course Narrative Schedule, JASOC Class 13-B (Maxwell Air Force Base, AL, February 2013).

Table 25 lists the operational law blocks taught only by one school.

Table 25. Operational Law Blocks of Instruction Taught by One School			
<u>Block of Instruction</u>	<u>Hours at JAOBC</u>	<u>Hours at BLC</u>	<u>Hours at JASOC</u>
Center for Law and Military Operations	1	0	0
War Crimes	2	0	0
International Human Rights Law	3	0	0
Defense Support to Civil Authorities	1	0	0
Current Events	1	0	0
Law of the Sea	0	3.25	0
Counter Piracy	0	1	0
Humanitarian Assistance, Disaster Relief	0	1	0
Handling Classified Information	0	0.5	0
Rules of Engagement and Law of the Sea Briefings and Debrief	0	7.5	0
Middle East Culture and History	0	0	1.5
Command and Control	0	0	1
Domestic Operations	0	0	1
Base Legal Readiness	0	0	1
Joint Issues in an Operational Environment	0	0	1
Law of Visiting Forces	0	0	1
Civilians Accompanying Forces on the Battlefield	0	0	1
JAGs Roles in Operations	0	0	1
Operational Deployments Panel	0	0	1
Rule of Law	0	0	1

Source: Created by author, data obtained from The Judge Advocate General's Legal Center and School, "Judge Advocate Officer Basic Course Schedule," February 2013; Naval Justice School, "Navy Basic Lawyer Course Schedule," January 2013; U.S. Department of the Air Force, *Memorandum for Judge Advocate Staff Officer Course 13-B Attendees*, Subject: Course Narrative Schedule, JASOC Class 13-B (Maxwell Air Force Base, AL, February 2013).

While seven operational law blocks of instruction match between the three schools, differences still exist. For example, the Army spends 9 full hours teaching the Geneva Conventions, while the Navy spends 3 hours, and the Air Force only 1.5 hours. Similarly, the Army spends 4 hours teaching the legal basis for the use of force, but the other two services only spend one hour each on the same topic. The other five blocks also have different amounts of hours devoted by each school to the topic. These differences generally line up with what type of operational law advice each Judge Advocate will have to render during their early career. An Army Judge Advocate will spend much more time dealing with Geneva Convention issues and the legal basis for the use of force than an Air Force or Navy Judge Advocate. One area where this generality breaks down comes from dealing with Marine Judge Advocates. Marines deal with very similar issues to Army Judge Advocates when conducting ground combat.

In the five blocks of instruction taught by two schools, only two blocks stand out and require specific focus. The Army and NJS spend 6 and 3 hours respectively teaching means, methods, and direct participation in hostilities, while the Air Force does not teach that topic. Again, this lines up with the Army's focus on ground combat (and the Marines by extension), while the Air Force does not necessarily advise commanders routinely on this topic. The Gauntlet and Operation Jagged Sword stand out as well. These two exercises simulate an operational environment. The student Judge Advocates must answer operational law issues to "commanders" played by the faculty. The Navy does not have a specific exercise that matches the Gauntlet or Operation Jagged Sword, but they do require a briefing on the rules of engagement and the law of the sea that serves as their capstone event for operational law.

The remaining blocks taught by just one school each again highlight the different focus areas of each service. The Army school focuses on topics such as war crimes and international human rights law, NJS focuses on topics such as the law of the sea and counter piracy, while AFJAGS focuses on base legal readiness and joint issues in an operational environment. Overall, a joint JAOBC would struggle to reconcile these individual topics without adding a large number of hours to the operational law area. As currently laid out, the Army teaches 49 hours of operational law, the Navy 37.75 hours, and the Air Force 41.5 hours. A merger of all of the operational law blocks without dropping any topics, and by using the Army as a baseline due to the highest overall hour total in operational law, yields a classroom hour total of 72.75. Finding additional classroom time for those extra 24 to 35 hours means finding an additional 3 to 5 days to add to the joint JAOBC curriculum. This possible solution also does not address the fact that the services do not necessarily need initial entry Judge Advocates trained in all of these operational law areas. As a result, reconciling the operational law blocks between the three schools would take some prioritization of topics amongst the services to prevent unnecessary instruction.

Military Justice Hours

Military Justice has the distinction within the JAG Corps of all of the services of functioning as the only statutory mission for Judge Advocates.⁸⁷ With that in mind, noting that all three schools place heavy emphasis on this area of the law makes sense. The Navy teaches 164 hours of instruction, plus an optional block of 37 additional

⁸⁷UCMJ art. 27 (2012).

hours.⁸⁸ The Air Force teaches 104.75 hours of instruction in military justice.⁸⁹ The Army teaches 104.5 hours of instruction in military justice.⁹⁰ In each case, the number of hours dedicated to military justice training exceeds the number of hours devoted to administrative and civil law, contract and fiscal law, and operational law. As with the other areas of the law, differences exist in the specific blocks of instruction taught in military justice by each school, but many more of the instruction blocks match. Table 26 lists the common blocks of instruction in military justice.

⁸⁸Naval Justice School.

⁸⁹The Judge Advocate General's Legal Center and School, "Judge Advocate Officer Basic Course Schedule."

⁹⁰U.S. Department of the Air Force, *Memorandum*.

Table 26. Military Justice Common Blocks of Instruction			
<u>Block of Instruction</u>	<u>Hours at JAABC</u>	<u>Hours at BLC/ Hours in Specialty Week</u>	<u>Hours at JASOC</u>
Introduction to Military Justice	1	0.5	4
Military Crimes and Defenses, Article 120, UCMJ	2	6	5.5
Article 15, UCMJ	1	4	4.5
Search and Seizure	1	4/1.5	3
Self-Incrimination	2	1.5	3
Pleadings, Multiplicity, Drafting of Charges	3	6.5	3
Preferral of Charges	1	0.5	0.5
Theme Development	2	5.5/1.5	1
Professional Responsibility	2	3/2	2
Pretrial Confinement	5	2	3
Direct Examination	2.5	3.25/1.25	2.5
Handling and Admitting Exhibits	2	3.5	2.5
Hearsay	3	4	3.5
Cross Examination	2.5	2.25/1.25	3.5
Character and Impeachment	5	2.5	3.5
Article 32, UCMJ	6.5	3	2
Discovery	3.5	1	2
Referral of Charges	1	2	1
Motions Advocacy	7.5	16.5	1.5
Pleas and Pretrial Agreements	1	8	3
Opening Statements	2	2/3.5	3
Arguments	1	2/4	6.5
Sentencing	13	6/1	2
Court-martial Mock Trial	9	53	14.5

Source: Created by author, data obtained from The Judge Advocate General's Legal Center and School, "Judge Advocate Officer Basic Course Schedule," February 2013; Naval Justice School, "Navy Basic Lawyer Course Schedule," January 2013; U.S. Department of the Air Force, *Memorandum for Judge Advocate Staff Officer Course 13-B Attendees*, Subject: Course Narrative Schedule, JASOC Class 13-B (Maxwell Air Force Base, AL, February 2013).

Table 27 lists the military justice blocks of instruction taught by two schools.

Table 27. Military Justice Blocks of Instruction Taught by Two Schools			
<u>Block of Instruction</u>	<u>Hours at JAOBC</u>	<u>Hours at BLC/ Hours in Specialty Week</u>	<u>Hours at JASOC</u>
Jurisdiction	1	1	0
Victim Witness Program	1	0.5	0
Case Analysis	2.5	2	0
Witness Interviews	2	0/3	4.75
Unlawful Command Influence	1	0.5	0
Uncharged Misconduct and Character Evidence	1	3.5	0
Voir Dire	0	1/2.5	3.5
Findings and Instructions	2	0/1	1
Post-Trial and Appeals	1	0/1	2
Sexual Assault Prevention and Response	0	1	2
Evidence Overview	0	0.5	2
Military Justice Exam	0	6.5	2
View from the Bench	0	1.5	1

Source: Created by author, data obtained from The Judge Advocate General's Legal Center and School, "Judge Advocate Officer Basic Course Schedule," February 2013; Naval Justice School, "Navy Basic Lawyer Course Schedule," January 2013; U.S. Department of the Air Force, *Memorandum for Judge Advocate Staff Officer Course 13-B Attendees*, Subject: Course Narrative Schedule, JASOC Class 13-B (Maxwell Air Force Base, AL, February 2013).

Table 28 lists the military justice blocks taught only by one school.

Table 28. Military Justice Blocks of Instruction Taught by One School			
<u>Block of Instruction</u>	<u>Hours at JAOBC</u>	<u>Hours at BLC/ Hours in Specialty Week</u>	<u>Hours at JASOC</u>
Summary Courts-Martial	1	0	0
Constitutional Rights of the Accused	1	0	0
Offender Centric Prosecution	1.5	0	0
Objections	0.5	0	0
Witness Memory	2	0	0
Prosecution Memorandum	0.5	0	0
Confrontation Clause	1.5	0	0
Production	1	0	0
Military Rules of Evidence 412-414	1.5	0	0
Arraignment Demo	1	0	0
Military Justice Online	1	0	0
Criminal Law After Action Review	1	0	0
Case Management System	0	0.5	0
Sex Offender Registration	0	0.5	0
Non-Punitive Measures	0	1	0
Service Records and Enlisted Issues	0	1.5	0
Demonstrative Court-Martial	0	0	2.5
Right to Counsel, Defense Requests	0	0	1.25
Trial Procedure	0	0	1.25
Military Justice Administration	0	0	1
Office of Special Investigations, Judge Advocate Working Relationship	0	0/1 (NCIS)	1
Investigation	0	0/1	0
Expert Assistants and Witnesses	0	0/1.5	0
Funding Your Witnesses	0	0/1	0
Obtaining Evidence, Subpoenas, Immunity	0	0/2	0
Coast Guard Cases	0	0/1	0
Privileges	0	0/0.5	0
Working With Paralegals	0	0/1	0
Convening Authorities and Working with Them	0	0/1	0
Brig Class	0	0/1	0
Navy Drug Screening Lab	0	0/2.5	0
Marine, Navy Specific Discussion	0	0/1.5	0

Source: Created by author, data obtained from The Judge Advocate General's Legal Center and School, "Judge Advocate Officer Basic Course Schedule," February 2013; Naval Justice School, "Navy Basic Lawyer Course Schedule," January 2013; U.S. Department of the Air Force, *Memorandum for Judge Advocate Staff Officer Course 13-B Attendees*, Subject: Course Narrative Schedule, JASOC Class 13-B (Maxwell Air Force Base, AL, February 2013).

Unlike the other areas of the law, military justice has 24 blocks of instruction that all three schools teach. However, each of these blocks of instruction contains different numbers of hours devoted to each topic. The most extreme example comes from the Navy spending 53 hours on mock court-martial practice, while the Army and the Air Force devote only 9 hours and 14.5 hours respectively to their similar mock trials. The Navy also spends 16.5 hours on motions practice and advocacy, while the Army and the Air Force devote only 7.5 and 1.5 hours respectively. Many of these hours that the Navy uses come from preparation hours, but overall the Navy spends 69.5 hours on mock trial exercises. This compares to 24 hours for the Army and 16 hours for the Air Force. These two examples demonstrate the difficulty of merging military justice in a joint JAOBC environment. Even if many of these similar blocks of instruction covered exactly the same range of topics, the number of hours devoted to each block would require an agreement on prioritization between the services in order to create a joint JAOBC curriculum.

The thirteen blocks of instruction taught by at least two of the three JAG schools represent several challenges. For example, BLC devotes 6.5 hours to examinations and examination reviews, but the Army does not have a military justice exam. Students at JAOBC receive a pass or fail grade instead. In another area, the Navy and the Air Force teach voir dire to their students, but the Army does not. Instead, the Army considers voir dire a more advanced advocacy topic that TJAGLCS covers in the Intermediate Trial Advocacy Course.⁹¹ Unlawful command influence, long considered “the mortal enemy of

⁹¹The Judge Advocate General’s Legal Center and School, “Contract for the Intermediate Trial Advocacy Course,” 2013.

military justice,” is not taught by the Air Force in a specific block of instruction.⁹²

However, one point jumps out from Table 27: when students at BLC choose the military justice specialty week, all of the topics covered by the Air Force and the Army also receive coverage by the NJS. This shows that the schools can devote the time to topics in military justice as required.

The remaining 32 blocks of instruction taught by only one school represent an interesting dichotomy. On the one hand, each of these blocks of instruction may represent an area that an individual service must focus on. For example, the Army conducts many summary courts-martial, which represents a need to teach a one hour block of instruction on summary courts.⁹³ Likewise, the Military Justice Online (MJO) block, the Case Management System block, and the Military Justice Administration blocks taught by all three services represent the differing methods of conducting, managing, and supervising military justice. However, on the other hand, each of these blocks may represent a topic that an individual school may or may not teach depending on the apparent difficulty of the topic area. Twelve of the topics taught only by one school can only be taught to BLC students if they elect the military justice specialty week. The remainder of the BLC students will not receive any instruction on those twelve topic areas (and the remainder of

⁹²United States v. Lewis, 63 M.J. 405 (C.A.A.F. 2006).

⁹³The Army tried 632 summary courts-martial in 2011, compared to 133 in the Navy, 1289 in the Marine Corps, 144 in the Air Force, and 19 in the Coast Guard. Annual Report to the Subcommittees on Armed Services of the United States Senate and United States House of Representatives and to the Secretary of Defense, Secretary of Homeland Security, and the Secretaries of the Army, Navy, and Air Force, Pursuant to the Uniform Code of Military Justice, for the period October 1, 2010 to September 30, 2011, <http://www.armfor.uscourts.gov/newcaaf/annual/FY11AnnualReport.pdf> (accessed 12 May 2013).

the specialty week hours). The Army and the Air Force do not even offer those twelve blocks of instruction to their students, with the exception of the Air Force Office of Special Investigations class.

Reconciling the differences between the military justice blocks of instruction taught by the three schools would most likely require a large cut in the number of hours taught by the Navy. Including the specialty week, the Navy teaches 201 hours of military justice. That represents almost double the approximately 104 hours that the Army and the Air Force teach in the same area of the law. Even if the Army and the Air Force wanted to add additional hours to their military justice instruction, they probably could not add an additional 97 hours. This large deficit in hours of military justice instruction represents another major hurdle to a joint JAOBC class.

Curriculum Comparisons to 2003

While the numbers of hours devoted to each block of instruction remain important, when compared with the numbers provided in the 2003 report, the numbers of hours show changes in focus made by the JAG schools in the last ten years. First, the numbers of total hours taught by each school remain almost static. The NJS BLC taught 356.5 total hours in 2003 compared to 370-376 total hours in 2013 depending on which specialty week block the students select.⁹⁴ This represents approximately a 4 to 5 percent increase in ten years. The TJAGLCS JAOBC taught 333 total hours in 2003 compared to 324.5 total hours in 2013.⁹⁵ This represents approximately a 3 percent decrease. The

⁹⁴U.S. Department of the Army, *Memorandum*, 5; Naval Justice School.

⁹⁵U.S. Department of the Army, *Memorandum*, 5; The Judge Advocate General's Legal Center and School, "Judge Advocate Officer Basic Course Schedule."

AFJAGS JASOC taught 347 total hours in 2003 compared to 294.25 total hours in 2013.⁹⁶ This represents approximately a 15 percent decrease. The only significant change in the curriculum hours taught comes from the Air Force. However, this change could be due to several factors, including dropping a trip to Washington, DC, and the number of administrative hours spent during the course.

The second comparison point to make with between the 2003 numbers and the 2013 numbers comes from the hours devoted to each block of instruction. Exact comparisons between the numbers remain difficult due to the differences in methodology between the 2003 report and the methodology this thesis uses, but generally speaking, the difference in methodologies accounts for only a small percentage. In 2003, the NJS BLC spent 72 hours on administrative and civil law, 208 hours on military justice, and 6 hours on operational law. The BLC spent zero hours on contract and fiscal law and spent 70.5 hours on administrative blocks.⁹⁷ In 2013, as shown, the BLC spent 109 hours on administrative and civil law (or as high as 151 hours depending on the specialty week), 164 hours on military justice (or as high as 200 hours with the military justice specialty week), 37.75 hours on operational law, and 1.75 hours on contract and fiscal law. The BLC spent just 21.5 hours on administrative blocks.⁹⁸ In the last ten years, the Navy has clearly shifted focus towards more administrative and civil law and more operational law

⁹⁶U.S. Department of the Army, *Memorandum*, 5; U.S. Department of the Air Force, *Memorandum*.

⁹⁷U.S. Department of the Army, *Memorandum*, 4-5.

⁹⁸Naval Justice School.

at the expense of military justice and administrative blocks, although the hours devoted to military justice remain almost as high with the military justice specialty week.

In 2003, the AFJAGS JASOC spent 92.5 hours on administrative and civil law, 136.5 hours on military justice, 31 hours on operational law, 6.5 hours on contract and fiscal law, and 80.5 hours on administrative blocks (which included a trip to Langley Air Force Base and Washington, DC).⁹⁹ In 2013, the JASOC spent 76.5 hours on administrative and civil law, 104.75 hours on military justice, 41.5 hours on operational law, 5.5 hours on contract and fiscal law, and 66 hours on administrative blocks.¹⁰⁰ In the last ten years, the Air Force has gradually expanded the operational law block, but due to the lower number of overall hours taught by JASOC, the number of hours devoted to the other blocks remains almost the same proportionally.

In 2003, the TJAGSA JAOBC spent 114 hours on administrative and civil law, 96 hours on military justice, 48 hours on operational law, 12 hours on contract and fiscal law, and 63 hours on administrative blocks.¹⁰¹ In 2013, the JAOBC spent 94 hours on administrative and civil law, 104.5 hours on military justice, 49 hours on operational law, 36 hours on contract and fiscal law, and 41 hours on administrative blocks.¹⁰² In the last ten years, the Army has tripled the number of hours devoted to contract and fiscal law, but generally kept the remainder of the blocks similarly sized.

⁹⁹U.S. Department of the Army, *Memorandum*, 4-5.

¹⁰⁰U.S. Department of the Air Force, *Memorandum*.

¹⁰¹U.S. Department of the Army, *Memorandum*, 4-5.

¹⁰²The Judge Advocate General's Legal Center and School, "Judge Advocate Officer Basic Course Schedule."

The final comparison point to make with the 2003 report concerns the length of each course. The Army course in 2003 lasted ten weeks, compared to ten-and-one-half weeks now.¹⁰³ The Navy course in 2003 lasted nine weeks, compared to ten weeks now.¹⁰⁴ The Air Force course also lasted nine weeks in 2003, and still lasts nine weeks in 2013.¹⁰⁵ The Army and the Navy each have expanded their course length, while the Air Force course length remains the same. However, even though the Army and Navy have expanded their course length in the last ten years, the number of overall hours taught by those two institutions remains almost the same. In fact, as mentioned, the increase in hours of instruction for the Navy comes from the specialty week, while the Army actually reduced the number of hours of instruction.

While many things remain the same about the curricula of the three JAG schools from 2003 to 2013, many things have changed. These changes show the shift in focus of the three schools, or the lack of the shift in focus, depending on the particular blocks of instruction, or even the length of the course overall. However, the mere fact that changes have been made over the past decade, shows that changes that might be required to consolidate instruction between the three schools remain possible.

Other Missions of the JAG Schools

One major hurdle to a joint JAOBC comes from the other missions of the JAG schools. All three of the schools conduct training outside of their respective JAOBC. In

¹⁰³U.S. Department of the Army, *Memorandum*, 4.

¹⁰⁴*Ibid.*

¹⁰⁵*Ibid.*

fact, the initial officer basic training composes a small portion of what each of the three schools does overall. The Army added the Legal Center in 2003, which created a whole new set of missions for the school.¹⁰⁶ In addition to the Legal Center, the Army school teaches the Graduate Course to promotable captains or junior majors. The Graduate Course consists of a forty-one week program that bestows an ABA accredited Master of Laws degree on the students that complete the course.¹⁰⁷ Students from all five services attend the Graduate Course, although active duty Army Judge Advocates are the only required attendees. The other services send students as required. The Army school also consists of the Noncommissioned Officers Academy (NCOA). The NCOA teaches the Senior Leader Course and the Advanced Leader Course. The NCOA also has oversight of the paralegal Advanced Individual Training (AIT) at Fort Lee, Virginia.¹⁰⁸ The Army school teaches 51 Continuing Legal Education (CLE) short-courses throughout the year on various topics from military justice to administrative law to court reporter training. These courses range in length from three days to three weeks. Over 7,000 students attend these courses annually.¹⁰⁹ In addition to that, the Army JAG school instructors train an additional 3,000 students each year at locations throughout the Department of Defense.¹¹⁰

¹⁰⁶The Judge Advocate General's Corps, "Regimental History."

¹⁰⁷The Judge Advocate General's Legal Center and School, *Fiscal Year 2013 Course Catalog* (Charlottesville, VA, 2012), 12.

¹⁰⁸*Ibid.*, 20.

¹⁰⁹*Ibid.*, 15.

¹¹⁰*Ibid.*

The Army JAG school also teaches five Senior Officer Legal Orientation (SOLO) courses throughout the year to teach legal principles to those selected for brigade and battalion command.¹¹¹ The SOLO lasts one week. The current SOLO capacity is 400 students per year, but the school fills approximately 345 of those seats.¹¹² The school also teaches approximately 40 general officers in a one-on-one format for the General Officer Legal Orientation (GOLO).¹¹³ The GOLO lasts one day, but includes intensive training on legal topics necessary for general officers taking command. Finally, the Army school also recently added the Command Sergeant Major Legal Orientation (CSMLO) course for command sergeants major assuming nominative positions. The CSMLO lasts one week and has a current capacity of 40 students per year.¹¹⁴

The Air Force teaches 33 CLE short-courses at Maxwell Air Force Base. They do not have a Graduate Course equivalent at AFJAGS, but they do teach 4,100-4,200 students in resident every year.¹¹⁵ In addition to those students, AFJAGS teaches approximately 15,000 non-Judge Advocates annually.¹¹⁶ These non-Judge Advocates primarily consist of students at the Air War College, the Officer Training School, and other Air Force courses at Maxwell Air Force Base. Some of the instructors travel to other courses throughout the Department of Defense, including the Chaplain School at

¹¹¹LTC Timothy Furin, telephonic interview by author, 20 May 2013.

¹¹²*Ibid.*

¹¹³*Ibid.*

¹¹⁴*Ibid.*

¹¹⁵Theurer, interview.

¹¹⁶*Ibid.*

Fort Jackson, South Carolina.¹¹⁷ The AFJAGS relies on expertise from the Air University to teach several of their short courses, including air operations and cyber law. The Air University also has a wargaming center that can run scenarios for their short courses.¹¹⁸ AFJAGS, like TJAGLCS, teaches their paralegals at their school. Additionally, AFJAGS just recently received a tasking to serve as the Special Victims Appellate Counsel for the Air Force.¹¹⁹

The Navy teaches 28 CLE short-courses across three different locations. They also teach 30 senior officer courses annually.¹²⁰ Like the Air Force, they do not teach a Graduate Course equivalent at NJS, but they train a total of 3,500 resident students per year.¹²¹ Outside of NJS, their instructors teach a total of as many as 19,000 students.¹²² These students attend courses such as the Officer Candidate School, the Surface Warfare School, the Naval Academy prep school, the Senior Enlisted Academy, the Naval War College, the Chief Warrant Officer School, and the Submarine School. Some of these courses occur at Newport, Rhode Island near the NJS, but some occur elsewhere, such as Groton, Connecticut. Like AFJAGS, the NJS relies on local expertise to assist in training. For example, they rely on subject matter experts from the Naval War College for

¹¹⁷Becker, interview.

¹¹⁸Theurer, interview.

¹¹⁹Ibid.

¹²⁰Pedrozo, interview.

¹²¹Ibid.

¹²²Ibid.

operational law topics and mentorship.¹²³ The new BLC model coming later this year trains on an Amphibious Ready Group-Marine Expeditionary Unit (ARG-MEU) concept. This new course model will require a pool of senior Navy, Marine, and Coast Guard line officers to implement.¹²⁴ Additionally, the NJS teaches a Navy Legalman Accession Class for Sailors with two to three years in the Navy. They spend 11 weeks in the course and receive ten college credit hours from Roger Williams University. The program receives accreditation from the American Bar Association (ABA) and the students all spend a college semester after completion of the course at Roger Williams University in Newport, Rhode Island. As an added benefit, these Sailors leave the program just a few courses from completing their paralegal degree.¹²⁵

Service Culture

One of the critical things about initial Judge Advocate officer training that comes up routinely in discussion with senior Judge Advocates from all of the services is the concept of service culture. Each branch of the military has its own unique service culture that influences “service operations, including joint operations.”¹²⁶ New Judge Advocates must learn as much as they can about their particular service culture in the nine or ten weeks that they attend initial training at one of the three JAG schools. Once they leave

¹²³Ibid.

¹²⁴Ibid.

¹²⁵Ibid.

¹²⁶Lieutenant Colonel Joyce P. DiMarco, “Service Culture Effects on Joint Operations: The Masks of War Unveiled” (Monograph, School of Advanced Military Studies, 2004), 9.

training, they must know enough about their service culture to adequately and competently advise their commanders and clients. The pressure to learn service culture quickly becomes magnified by the fact that most Judge Advocates start out as First Lieutenants (Army and Air Force) or Lieutenants Junior Grade (Navy and Coast Guard) and receive promotions to Captain (Army and Air Force) or Lieutenant (Navy and Coast Guard) shortly after arrival at their first unit. Commanders expect officers of that rank to know the culture and how the services work. Most of the officers attending OBC, BLC, or JASOC do not have prior service experience to assist in learning service culture. For example, approximately 80 percent of the officers attending JAOBC at the Army school have no prior experience and are direct commissioned into the JAG Corps.¹²⁷

Almost all of the senior leadership at the three JAG schools thinks the challenge of adequately learning service cultures might overwhelm new Judge Advocates in a joint environment. For example, the Army Dean, Colonel David Diner states that while a joint JAG school would work provided enough space, resources, and instructors were provided for implementation, “It is critically important to keep the basic course separate.”¹²⁸ He says it provides an initial grounding and sets each student’s initial reputation in the JAG Corps.¹²⁹ Later in their careers, joint training for Judge Advocates would work.¹³⁰ In his opening speech to the OBC, Colonel Diner gives the students five objectives: (1) build your pride in the Army JAG Corps, history, and culture; (2) build a cohesive class; (3)

¹²⁷CAPT Jason Ballard, telephonic interview by author, 20 May 2013.

¹²⁸Diner, interview.

¹²⁹Ibid.

¹³⁰Ibid.

provide a baseline of knowledge in the core practice areas; (4) build and improve physical fitness; and, (5) build your reputation in the JAG Corps, with the faculty, and with your fellow students.¹³¹ He states that only one of those five deals with academics while the remainder deal heavily with culture and pride in the JAG Corps.¹³²

Similarly, Mr. Moe Lescault, Associate Dean for Academics at the Army JAG School, believes that the OBC must orient Judge Advocates to the military and the Army.¹³³ Later in their careers, such as at the Graduate Course, “a joint environment makes sense.”¹³⁴ The students can translate other service language and regulations into something that they can relate to their service.¹³⁵ He does mention that the Marines could “join the Army full time” at the JAG school. As a fellow ground force, the culture would not present as much of a hurdle to initial training.¹³⁶ Similarly, Mr. Fred Borch, Regimental Historian for the Army JAG Corps, believes the Marines would join the Army JAG school training immediately if they could.¹³⁷ He believes a joint JAOBC would be “certainly possible.”¹³⁸

¹³¹Ibid.

¹³²Ibid.

¹³³Lescault, interview.

¹³⁴Ibid.

¹³⁵Ibid.

¹³⁶Ibid.

¹³⁷Borch, interview.

¹³⁸Ibid.

From the Air Force perspective, the Commandant at AFJAGS, Colonel Kenneth Theurer, believes that there would be “value institutionally” if the services all saw things the same way, but a joint “basic course is not the way” right now because the services do not see things the same way.¹³⁹ He believes that a commander would not want an Army Judge Advocate to go through JASOC, nor vice versa, because the JASOC trains Judge Advocates for the first eighteen months of service in the Air Force.¹⁴⁰ Beyond that point, the Judge Advocate has the experience and knows the culture well enough to work with the other services. Similarly, Mr. Thomas Becker, Academic Director at AFJAGS, states that the services have “different values” and teaching service specific things like the administrative discharge process would be “expensive and time consuming” in a joint environment.¹⁴¹ He believes that service culture is “important and should not be dismissed” by critics who think that service culture does not matter as much.¹⁴² In his opinion, a joint JAOBC could work, but it would necessarily spend less emphasis on that important service culture.¹⁴³

From the Navy perspective, the “sea service culture” and “learning what it’s all about” should be the focus of BLC according to Captain Stacy Pedrozo, Commandant of the Naval Justice School.¹⁴⁴ She believes that there exists “a synergy between the three

¹³⁹Theurer, interview.

¹⁴⁰Ibid.

¹⁴¹Becker, interview.

¹⁴²Ibid.

¹⁴³Ibid.

¹⁴⁴Pedrozo, interview.

sea services” that the school must teach at the BLC level.¹⁴⁵ The attendance of all three services at BLC follows guidance from a document signed by the Commandant of the Marine Corps, the Commandant of the Coast Guard, and the Chief of Naval Operations.¹⁴⁶ The fact that these three strategic leaders signed the document shows the importance of sea service culture at BLC.

Overall, the concept of service culture stands as a major hurdle to a joint JAOBC. Even with a joint faculty, covering a sufficient amount of service specific culture, while the students attempt to filter out the culture that does not apply to their service, stands as the primary difficulty to a joint JAOBC. As Mr. Lescault rhetorically asked, “How would an SJA feel if they got an officer from a joint JAG school?”¹⁴⁷ The SJA would probably have to adjust their intake and initial training process to bring that officer up to speed from where they would have been had they graduated from a service specific JAG school.

Certification under Article 27(b), UCMJ

As mentioned previously, the three schools have a different process of certification under Article 27(b), UCMJ.¹⁴⁸ This process remains a critical step in the initial training of Judge Advocates. If students leave the JAG schools without it, the

¹⁴⁵Ibid.

¹⁴⁶Ibid.

¹⁴⁷Lescault, interview.

¹⁴⁸“(b) Trial counsel or defense counsel detailed for a general court-martial . . . must be certified as competent to perform such duties by the Judge Advocate General of the armed force of which he is a member.” UCMJ art. 27(b) (2012).

burden to train that Judge Advocate to a certification level falls upon the SJA at their initial assignment. That SJA cannot use that Judge Advocate fully either because without it, the Judge Advocate cannot serve as trial or defense counsel in a general court-martial. The Army and the Navy do certify their graduates under Article 27(b) before graduation.¹⁴⁹ However, the Air Force chooses not to certify their JASOC graduates under Article 27(b) prior to graduation.¹⁵⁰ Up until about a year ago, the Air Force did certify their Judge Advocates during JASOC. The process changed to ensure SJAs had an incentive to get initial entry Judge Advocates into the courtroom early on in their careers. When the JASOC graduates came to the SJA certified, occasionally an SJA would not push to get that officer into the courtroom, leading to courtroom skill atrophy. Colonel Theurer states that he believes this process works. Post-JASOC certification ensures Judge Advocates “get into the courtroom and reduces mistakes later in their careers.”¹⁵¹ Colonel Theurer’s previous assignment was Chief, Military Justice Division, Air Force Legal Operations Agency, which is the senior government military justice position in the Air Force. Holding that assignment makes his perspective on certification under Article 27(b) an important one.

A joint JAOBC would have to reconcile the difference in certification between the Air Force and the Navy and the Army. One answer would simply require certification of all students prior to graduation. However, the Air Force would lose the important

¹⁴⁹Diner interview; Commander Julia Crisfield, electronic correspondence to author, 25 March 2013.

¹⁵⁰Theurer, interview.

¹⁵¹Ibid.

mechanism to ensure SJAs place their initial-term Judge Advocates in the courtroom. Another answer would require certification to occur in the field like the Air Force currently does. However, the Army and the Navy would likely not embrace this option because it could create more work for their SJAs in the field. As a third option, because Article 27(b) certification relies solely on the judgment of TJAG, the Air Force TJAG could withhold certification under Article 27(b) at a joint JAOBC while the Army and the Navy TJAGs grant certification upon graduation. This option would keep the status quo in place.

TJAG Authority

The judgment and authority of each service TJAG must be reconciled in a joint JAOBC environment. Similar to the authority of each TJAG to certify Judge Advocates under Article 27(b), UCMJ, each TJAG has plenary authority over the instruction that each JAG school provides to their initial entry students. For the Army, Title 10, U.S. Code, Section 3037(c) provides that, “The Judge Advocate General, in addition to other duties prescribed by law . . . shall direct the members of the Judge Advocate General’s Corps in the performance of their duties.”¹⁵² For the Air Force, a similar provision exists in Title 10, U.S. Code, Section 8037(c).¹⁵³ However, for the Navy, no such provision exists. The closest provision in Title 10, U.S. Code is Section 5148(d), which provides that the Navy TJAG “shall . . . perform duties relating to legal matters arising in the

¹⁵²10 U.S.C. § 3037(c) (2006).

¹⁵³10 U.S.C. § 8037(c) (2006).

Department of the Navy as may be assigned to him [by the Secretary of the Navy].”¹⁵⁴

The Staff Judge Advocate to the Commandant of the Marine Corps has a provision similar to the Navy in Title 10, U.S. Code, Section 5046(c).¹⁵⁵ The Coast Guard does not have a similar provision in the law. The reason for this difference between the Army and the Air Force and the Navy is beyond the scope of this thesis, but the fact remains that the service TJAGs have statutory control over the initial training that each Judge Advocate receives.

Colonel Diner stated that “TJAG is responsible for directing legal services to the Army.”¹⁵⁶ He believed issues might arise in a joint JAOBC environment where one TJAG wanted a certain type of training while the other TJAGs did not. Similarly, Colonel Theurer stated, “TJAG runs this school [AFJAGS].”¹⁵⁷ Changes to the curriculum must receive approval from the Air Force TJAG beforehand. For the Navy, the recent proposed change to an ARG-MEU concept, including a pre-deployment, deployment, and post-deployment phase, received approval from TJAG.¹⁵⁸

Reconciling the authority of the service TJAGs in a joint JAOBC environment might create issues. This authority would line up with service culture in many circumstances, compounding the problem. For example, if military justice remains a heavy focus for the Navy, but not as much for the Army or the Air Force, coming up with

¹⁵⁴10 U.S.C. § 5148(d) (2006).

¹⁵⁵10 U.S.C. § 5046(c) (2006).

¹⁵⁶Diner, interview.

¹⁵⁷Theurer interview.

¹⁵⁸Pedrozo, interview.

a curriculum that satisfies the training requirements of all three TJAGs could raise problems.

Funding and Other Topics

As stated at the outset of this thesis, funding remains a critical topic for the military under the current fiscal climate and sequestration. While the specific funding streams for the JAG schools and the exact dollar amounts remains beyond the scope of this thesis, several key points exist. First, the merger of the three schools into one joint JAG school at one location is not the primary research question behind this thesis. However, a joint JAOBC would remain difficult to implement in three locations. As a result, Congress would have to provide funding for a new JAG school or funding for the major expansion of one of the JAG schools. In the current fiscal climate, this remains unlikely. Second, a joint JAOBC without a subsequent savings in the budget would raise questions similar to the joint bases arising from the Base Realignment and Closure (BRAC) that resulted in limited or no savings.¹⁵⁹ Such savings might be illusory if the numbers of faculty, the size of the facility, and the numbers of students do not produce a smaller footprint overall. In light of the complexity of a joint JAOBC, a joint JAG school facility for all Judge Advocate training would make for an even more complex and costly facility. Finally, the services occasionally shift funding around between different facilities and priorities, such as weapons programs instead of personnel funding.¹⁶⁰ If one of the

¹⁵⁹U.S. Department of Defense, “Base Realignment and Closure 2005,” <http://www.defense.gov/brac/> (accessed 12 May 2013).

¹⁶⁰Office of the Under Secretary of Defense (Comptroller), U.S. Department of Defense, “DOD Reprogramming and Transfer Actions,” <http://comptroller.defense.gov/execution/reprogramming/fy2012.html> (accessed 12 May 2013).

three services decided not to fund their fair share of a joint JAG school facility in any one given year, this could lead to detrimental effects on the other two main services that continue to provide full funding for the facility. Such concerns do not exist with three separate JAG schools.

Another factor to consider in a joint JAOBC concerns logistical support and staffing. For example, each school has a support element that handles routine records, training, finance, and support issues. A joint JAOBC facility would have to concern itself with all of the services, making this logistical support and staffing manpower intensive. This heavy staffing requirement means less budget savings as well. Another factor concerns the location of TJAGLCS. As leased space, the Army bears an annual cost just to use the building.¹⁶¹ Meanwhile, AFJAGS and the NJS sit on military installations and have no annual leased space cost.

Another final factor to consider that remains mostly beyond the scope of this thesis is the merger of the three JAG Corps into one “purple” JAG Corps that serves all of the services. The Canadian Forces follow this model. Their JAGs come from any of the services and can advise any of the services.¹⁶² The U.S. military health care system has recently undergone similar merger attempts into the Defense Health Agency.¹⁶³ However, Judge Advocate advice between the services remains too different at this point,

¹⁶¹Lescault, interview.

¹⁶²National Defense and the Canadian Forces, “Office of The Judge Advocate General,” <http://www.forces.gc.ca/jag/index-eng.asp> (accessed 12 May 2013).

¹⁶³Patricia Kime, “Air Force General Appointed to Head Single Military Health Agency,” *ArmyTimes.com*, <http://www.armytimes.com/article/20130501/NEWS/305010022?> (accessed 12 May 2013).

as mentioned. The cultural differences, the regulatory differences, and the training differences, represent a large hurdle to a joint JAG Corps system. A future thesis could explore this topic more thoroughly.

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

Based on the foregoing analysis, four possible outcomes emerge. First, due to the numerous difficulties, the JAG schools could remain in the status quo. Second, the JAG schools could make improved use of the now-existing Interservice Legal Education Review Committee (ISLERC) to look at ways to merge training where appropriate. Third, the JAG schools could implement a de facto merger to facilitate a joint JAOBC. And fourth, the JAG schools could merge to implement a joint JAOBC and joint JAG training overall. This conclusion section will cover each one of these options.

The status quo remains the easiest option to implement for all of the services and comes with very few downsides. This option requires the schools to make no changes to their current curriculum, and avoids many of the issues mentioned throughout this thesis. For example, funding would not raise a problem under this option because the services would not have to expand their schools, nor make any substantive changes. Of course, if a joint JAG school saved money, this option would forego any savings that could occur. The services would not have to agree on a joint curriculum, which saves the issues surrounding which courses serve the interests of a particular service. It also prevents trying to piecemeal a course curriculum that with multiple service-specific breakout sessions that would occur in a joint JAOBC environment. The status quo prevents issues dealing with TJAG authority or disputes between the service TJAGs on the specific curriculum or certification under Article 27(b), UCMJ, for their respective Judge Advocates. Additionally, the status quo prevents any issues dealing with training initial-

entry Judge Advocates on the service-specific culture. The three schools remain free to teach service culture to their Judge Advocates without apprehension about cross-service culture confusion.

However, the status quo also prevents any benefits that might accrue from joint Judge Advocate training. The senior leadership at the three schools generally supports joint training. Colonel Diner stated that due to our deployment as a joint force, joint training has great value, even though he does not believe the basic course should go joint.¹⁶⁴ Mr. Lescault stated that the “joint environment makes sense” at the Graduate Course level, although he too does not support a joint JAOBC.¹⁶⁵ Mr. Borch fully supports joint training at all levels, including the basic course. He stated that “it is a lot better to make these decisions about being joint than to have someone tell you what to do.”¹⁶⁶ In his opinion, the officers could avoid service culture issues by doing their initial military training prior to attending JAOBC. Colonel Theurer believes that “joint training is a good thing,” but he looks at a joint JAOBC skeptically. At one point in his career, he would have said it would work, but now he is not so sure due to the cultural differences.¹⁶⁷ Mr. Becker stated that the services could implement joint training, but that it would not save any money. The service specific training on regulations would make the course expensive and administratively challenging.¹⁶⁸ The Navy already conducts a form

¹⁶⁴Diner, interview.

¹⁶⁵Lescault, interview.

¹⁶⁶Borch, interview.

¹⁶⁷Theurer, interview.

¹⁶⁸Becker, interview.

of joint training in their BLC due to the Navy, Marines, and Coast Guard all attending NJS. However, Captain Pedrozo believes that joint training is “very effective at the Graduate Course level,” but before then, a joint JAOBC loses its effectiveness.¹⁶⁹

The second option makes use of the ISLERC. In 1993, the Joint Chiefs of Staff tasked the Interservice Training Review Organization (ITRO) to “review . . . the feasibility and cost effectiveness of consolidating/collocating all armed service JAG/Legal training.”¹⁷⁰ However, the results of that review found “little, if any, duplication” of training.¹⁷¹ These results matched what the services had already studied since the ITRO founded the Interservice Legal Education and Review Committee (ISLERC) in 1977. The ISLERC charter “is to facilitate all Services training and education with a goal of eliminating duplication, reducing cost, standardizing instruction and increasing training and education efficiency, consistent with readiness.”¹⁷² The ISLERC meets twice annually and includes the Commandants and Deans of the schools, along with their deputies.¹⁷³ Cooperation through the ISLERC has led to recent efficiencies. For example, in 2012, the Army JAG school had to drop a legal assistance

¹⁶⁹Pedrozo, interview.

¹⁷⁰Annual Report to the Subcommittees on Armed Services of the United States Senate and United States House of Representatives and to the Secretary of Defense, Secretary of Transportation, and the Secretaries of the Army, Navy, and Air Force, Pursuant to the Uniform Code of Military Justice, for the period October 1, 1992 to September 30, 1993, 50.

¹⁷¹*Ibid.*

¹⁷²Colonel Thomas L. Strand, “The Commandant’s Corner,” *The Reporter* 31, no. 1 (March 2004): 3.

¹⁷³Lescault, interview.

course due to funding restrictions. Through the ISLERC, NJS added that course to its curriculum instead.¹⁷⁴ In another example, the Navy and the Army signed a one year agreement to allow the Navy to access the Army's online training system called JAG University (or JAG-U). The Navy paid for an additional help desk person as a trade-off. Through the ISLERC, the services have prioritized their efforts. The Army takes the lead on contract and fiscal law, the Navy takes the lead on operational law, and the Air Force takes the lead on environmental law.¹⁷⁵ Expanding the ISLERC could lead the schools to make further efforts towards joint JAOBC training and joint training in general. And, because the ISLERC was founded in 1977, it has the history and background to continue working towards joint training.

The third option, a de facto merger, would keep the three JAG schools intact at their respective locations, but create a joint headquarters and change the types of training conducted at each school. This model matches what recently occurred for the Chaplain Corps of each of the three main services. Recently, all three Chaplain schools moved to Fort Jackson and established three separate school buildings on one campus under a joint headquarters. The buildings are connected and share a common auditorium. However, the schools remain independent and do minimal joint training.¹⁷⁶ Moving to one location does not need to occur in order for this model to work for the JAG schools. The schools could maintain their current location and still fall under a joint headquarters.

Additionally, by restructuring the courses taught by each school, the amount of joint

¹⁷⁴Ibid.

¹⁷⁵Ibid.

¹⁷⁶Becker, interview.

training could increase. Mr. Borch and Mr. Lescault both proffered a model where AFJAGS teaches the OBC, TJAGLCS teaches the Graduate Course and all Continuing Legal Education courses (short courses), while NJS teaches all court reporters and paralegals.¹⁷⁷

This model has several advantages. The amount of funding needed to make this switch remains minimal due to the fact that no new buildings need to be built. The model allows the schools to maintain existing ties with their current locations. The NJS can still teach many of the courses on Newport, AFJAGS can teach many of the courses on Maxwell, while TJAGLCS can maintain its relationship with the University of Virginia and remain close enough to Washington, DC. This model has several disadvantages as well. First, none of the three schools, including AFJAGS can handle a throughput of 675 OBC students per year. All three of the schools struggle to manage their current throughput. Even with a restructuring so that AFJAGS taught only OBC training, the facility they have could not teach that many students per year, nor could the other schools. So even though no new buildings need to be built, some or all of the schools might need expansion in order to properly function. Second, this model does not solve the service culture issues. In fact, it may multiply those concerns due to the fact that only AFJAGS would teach the JAOBC. Their faculty numbers would have to change to a joint model in order to ensure all of the service cultures receive adequate representation. Third, this model does not deal with the curriculum differences and the needs of each of the services for training. Those issues would have to be resolved before implementation.

¹⁷⁷Borch, interview; Lescault, interview.

The fourth option, full merger, would require a new building or the major expansion of one of the JAG schools in order to make this possible. The school would have to merge all of the command, staff, and faculty billets into one organization headed by a flag officer. The services could rotate the leadership billets to ensure fairness. This model has several advantages. First, a joint JAG school would ensure joint training occurs for all Judge Advocates at all levels, including at the OBC level. This would have definite advantages for deployments in a joint environment. Second, a joint JAG school might save money in the long run by running only one facility instead of three. Some of the staff and faculty jobs between the three schools would merge into one staff with fewer personnel, resulting in cost savings. Finally, a joint JAG school would provide state of the art instruction from the best Judge Advocates in each of the three services. Such a faculty could provide subject matter expertise on all blocks of instruction, unlike the current model where each school has a particular expertise that the others do not.

However, full merger comes with many disadvantages. As mentioned previously, this model does not solve the difficulties associated with service culture, curriculum development, certification under Article 27(b), UCMJ, or TJAG authority over training. Those difficulties do not represent the largest difficulty. The funding needed to build a joint JAG school, or greatly expand one of the three schools into a joint JAG school would be large. In this fiscal climate, convincing Congress that this spending makes sense remains a challenge. In light of the unknown future savings provided by this full

merger, this plan seems like a BRAC plan that Congress has so far resisted under the current administration.¹⁷⁸

Recommendations

In light of the challenges posed by all four of these proposed models, this thesis recommends that the JAG schools pursue a strengthened ISLERC process, but maintain the status quo overall with regards to the OBC. The massive upfront expense of implementing a joint JAOBC, combined with the potential for minimal long-term savings, and the difficulty in merging the curriculum, the importance of service culture, and other related factors means that the ISLERC remains the best method to implement joint training for Judge Advocates.

Future theses should address in detail the funding issues and costs associated with joint JAOBC training. While this thesis mentioned funding briefly, the concept remains the major hurdle to implementation of a joint JAOBC model. Another topic beyond the scope of this thesis that deserves additional research is joint training beyond the JAOBC model. This thesis covered joint training incidentally to the joint JAOBC model, but not in detail. Finally, a future thesis could look into the feasibility of a joint JAG Corps concept, similar to the Canadian JAG Corps model.

¹⁷⁸Amaani Lyle, "Senior Defense Official Makes Case for BRAC to Congress," *Armed Forces Press Service*, <http://www.defense.gov/news/newsarticle.aspx?id=119770> (accessed 12 May 2013).

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